



भारत का राजपत्र

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सं. 26] नई दिल्ली, जून 19—जून 25, 2016, शनिवार/ज्येष्ठ 29—आषाढ़ 4, 1938

No. 26] NEW DELHI, JUNE 19—JUNE 25, 2016, SATURDAY/JYAIESTHA 29—ASADHA 4, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 10 जून, 2016

का.आ. 1222.—राष्ट्रीय आवास बैंक अधिनियम, 1987 (1987 का 53) की धारा 6 की उप-धारा (1) के खंड (ड.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, वित्तीय सेवाएं विभाग, नई दिल्ली में संयुक्त सचिव श्री पंकज जैन, आईएएस को श्री आलोक टण्डन, आईएएस, संयुक्त सचिव के स्थान पर तत्काल प्रभाव से और अगले आदेशों तक, राष्ट्रीय आवास बैंक (एनएचबी) के निदेशक मंडल में निदेशक नियुक्त करती है।

[फा.सं. 24/17/2010-आईएफ-II]

राजीव शर्मा, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 10th June, 2016

S.O. 1222.—In exercise of the powers conferred by clause (e) of Sub-section (1) of Section 6 of the National Housing Bank Act, 1987 (53 of 1987), the Central Government hereby appoints Shri Pankaj Jain, IAS, Joint Secretary,

Department of Financial Services, New Delhi as a Director on the Board of Directors of National Housing Bank with immediate effect and until further orders vice Shri Alok Tandon, IAS, Joint Secretary.

[F. No. 24/17/2010-IF-II]

RAJIV SHARMA, Under Secy.

नई दिल्ली, 14 जून, 2016

का.आ. 1223.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री सुचीन्द्र मिश्रा, संयुक्त सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय, नई दिल्ली को श्रीमती स्लेहलता श्रीवास्तव के स्थान पर तत्काल प्रभाव से और अगले आदेशों तक, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मण्डल में निदेशक नामित करती है।

[फा.सं. 6/3/2012-बीओ-I]

ज्ञानोत्तोष राय, अवर सचिव

New Delhi, the 14th June, 2016

S.O. 1223.—In exercise of the powers conferred by clause (d) of sub-section (1) of section 6 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, hereby nominates Shri Suchindra Misra, Joint Secretary, Department of Financial Services, Ministry of Finance, New Delhi as a Director on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD), with immediate effect or until further orders, vice Smt. Snehlata Shrivastava.

[F. No.6/3/2012-BO-I]
JNANATOSH ROY, Under Secy.

नई दिल्ली, 14 जून, 2016

का.आ. 1224.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, नीचे दी गई सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (3) में विनिर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में विनिर्दिष्ट बैंकों में तत्काल प्रभाव से और अगले आदेशों तक, सरकारी नामिती निदेशक नामित करती है:-

1	2	3
बैंक आफ इंडिया	श्री गिरीश चन्द्र मुर्मु, अपर सचिव, वित्तीय सेवाएं विभाग	सुश्री एना राय
पंजाब नैशनल बैंक	श्री मदनेश कुमार मिश्रा, संयुक्त सचिव, वित्तीय सेवाएं विभाग	श्री राजेश अग्रवाल
केनरा बैंक	श्री सुचीन्द्र मिश्रा, संयुक्त सचिव, वित्तीय सेवाएं विभाग	श्री पंकज जैन
इलाहाबाद बैंक	श्री अंशुमन शर्मा, उप सचिव, वित्तीय सेवाएं विभाग	श्री शशांक सक्सेना

[फा.सं. 6/3/2012-बीओ-I]

ज्ञानोत्तोष राय, अवर सचिव

New Delhi, the 14th June, 2016

S.O. 1224.—In exercise of the powers conferred by clause (b) of Sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominate the persons specified in column (2) of the table below as Government Nominee Director of the Banks specified in column (1) thereof, in place of the persons specified in column (3) of the said Table, with immediate effect and until further orders:-

(1)	(2)	(3)
Bank of India	Shri Girish Chandra Murmu, Additional Secretary, Department of Financial Services	Ms. Anna Roy
Punjab National Bank	Shri Madnesh Kumar Mishra, Joint Secretary, Department of Financial Services	Shri Rajesh Aggarwal
Canara Bank	Shri Suchindra Misra, Joint Secretary, Department of Financial Services	Shri Pankaj Jain
Allahabad Bank	Shri Anshuman Sharma, Deputy Secretary, Department of Financial Services	Shri Shashank Saksena

[F. No.6/3/2012-BO-I]
JNANATOSH ROY, Under Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 16 जून, 2016

का.आ.1225.— केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए नई दिल्ली स्थित दिल्ली उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित मामलों के अभियोजन तथा इनसे उत्पन्न दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा अन्वेषित प्रासंगिक अन्य मामलों में अपील, पुनरीक्षण का संचालन करने के लिए सर्वश्री निखिल गोयल, रिपुदमन सिंह भारद्वाज एवं अनुपम एस. शर्मा, अधिवक्ताओं को उनकी नियुक्ति की तारीख से तीन वर्षों के लिए अथवा अगले आदेशों तक, जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/13/2016-एवीडी-II]
मो. नदीम, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 16th June, 2016

S.O. 1225.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints S/Shri Nikhil Goel, Ripudaman Singh Bhardwaj and Anupam S. Sharma, Advocates as Special Public Prosecutor for conducting prosecution of cases instituted by Delhi Special Police Establishment (CBI) before the Delhi High Court at New Delhi and appeals, revisions or other matters arising out of the cases investigated by the Delhi Special Police Establishment (CBI) for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F.No. 225/13/2016-AVD-II]
MD. NADEEM, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक व्यूरो)

नई दिल्ली, 16 जून, 2016

का. आ.1226.— भारतीय मानक व्यूरो (प्रमाणन) विनियम 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पाद की मुहरांकन शुल्क अधिसूचित करता है :

अनुसूची

भारतीय मानक संख्या	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क (₹.)	इकाई दर स्लैब 1 (₹.)	स्लैब में इकाईयां	शेष	प्रचालन तिथि
						वृहद स्तर				
3181	-	-	1992	वाहक पट्टा - भूमिगत खानों तथा ऐसे ही अन्य जोखिम वाले अनुप्रयोगों के लिए अग्रिमत्रिरोधक वाहक पट्टा	एक स्केयर इकाई	149000	120000	0.85	सभी	- 26-05-2016
15511	-	-	2004	साइकिल जंजीरे - अभिलक्षण और परीक्षण पद्धतियां	100पीस	72000	58000	5.6	सभी	- 26-05-2016
10264	-	-	1982	ट्रॉली, अस्पताल और औद्योगिक कैटीन के लिए गर्म भोजन	1पीस	46000	37000	120	सभी	- 26-05-2016
302	2	59	1999	घरेलू और सम्बद्ध विद्युत माध्यन्त्रों की सुरक्षा भाग 2 विशेष अपेक्षाएं अनुभाग 59 कीटनाशक	1पीस	59000	48000	0.20	सभी	- 26-05-2016

[संदर्भ : सीएमडी 3/8:8]

दिनांक. : 16 जून, 2016

सी. के. महेश्वरी, वैज्ञानिक जी एवं उपमहानिदेशक (प्रमाणन)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 16th June, 2016

S.O.1226.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the product given in the schedule:

SCHEDULE

IS No.	Part	Sec	Year	Product	Units	Minimum Marking Fee (Rs.)		Unit Rate	Units in Slab-1	Remaining	Effective Date
						Large Scale	MSME				
3181	-	-	1992	Conveyor belts – Fire resistant conveyor belting for underground mines and such other hazardous applications	1 SqMtr	149000.00	120000/-	0.85	All	-	26-05-2016
15511	-	-	2004	Cycle chains- Characteristics and test methods	100 pieces	72000.00	58000/-	5.6	All	-	26-05-2016
10264	-	-	1982	Trolley, food for hospital and industrial canteens	1 piece	46000.00	37000/-	120	All	-	26-05-2016
302	2	59	1999	Insect Killer	1 piece	59000.00	48000/-	0.20	All	-	26-05-2016

[Ref: CMD-3/8:8]

Dated : 16 June 2016

C. K. MAHESHWARI, Sc. G & DDG (Certification)

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 17 जून, 2016

का. आ. 1227.— केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को राजपत्र में अधिसूचित करती है :-

- भारतीय खाद्य निगम, जिला कार्यालय, गंगटोक हैप्पी कोटेज डेवलपमेंट एरिया, सिक्किम-737101
- भारतीय खाद्य निगम, जिला कार्यालय, सिलीगुड़ी-734004, पश्चिम बंगाल

[सं. ई-11011/1/2008-हिन्दी]

सुभाशीष पन्डा, संयुक्त सचिव

(Department of Food and Public Distribution)

New Delhi, the 17th June, 2016

S.O. 1227.—In pursuance of Sub-rule (4) of rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the following offices under the administrative control of

the Ministry of Consumer Affairs, Food and Public Distribution (Dept. of Food and Public Distribution), where of more than 80% of staff have acquired the working knowledge of Hindi :

1. Food Corporation of India, District Office, Gangtok Happy Cottage Development Area, Sikkim-737101
2. Food Corporation of India, District Office, Siliguri-734004, West Bengal

[No. E-11011/1/2008-Hindi]

SUBHASISH PANDA, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 13 जून, 2016

का.आ. 1228.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स दिल्ली एयरपोर्ट पार्किंग सर्विस (डीएपीएस) के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली पंचाट (संदर्भ संख्या 160/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/06/2016 को प्राप्त हुआ था।

[सं. एल-11012/4/2015-आईआर (एम)]

समीर कुमार दास, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 13th June, 2016

S.O.1228.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 160/2015) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Delhi Airport Parking Service (DAPS) and their workman, which was received by the Central Government on 07/06/2016.

[No. L-11012/4/2015-IR(M)]
SAMIR KUMAR DAS, Under Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 160/2015

Ms. Priyanka Guleria,
C/o Shri Sunil Kumar,
F-372, 2nd Floor, Near Mata Chowk,
Mahipalpur,
New Delhi – 110 037

Versus

...Workman

The Manager,
Delhi Airport Parking Service,
MLCP, 6-Pillar, Terminal 3,
IGI Airport,
New Delhi 110 037

...Managements

AWARD

Central Government, vide letter No.L-11012/4/2015-IR(M) dated 30.06.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether resignation of the workman Ms.Priyanka Guleria vide her letter dated 05.06.2014 is a forced resignation? If yes, whether it can be construed as termination of the services of Ms. Priyanka Guleria by the management of Delhi Airport Parking Service (DAPS)? If yes, what relief the workman concerned is entitled to?”

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Ms. Priyanka Guleria opted not to file her claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman herein as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the workman herein. Despite service of the notice, neither the claimant nor any authorized representative appeared on behalf of the workman herein despite granting of opportunities. Thus, it is clear that the workman herein is not interested in adjudication of the reference on merits.

4. Since the workman herein has neither filed her statement of claim nor has she led any evidence so as to prove her cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated : May 20, 2016

नई दिल्ली, 13 जून, 2016

का.आ. 1229.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ट्रिनिटी कर्मर्थियल प्रा. लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट (संदर्भ संख्या 64/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/06/2016 को प्राप्त हुआ था।

[सं. एल-29012/32/2013-आईआर(एम)]

समीर कुमार दास, अवर सचिव

New Delhi, the 13th June, 2016

S.O. 1229.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 64/2013) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Trinity Commercial Pvt. Ltd. and their workman, which was received by the Central Government on 07/06/2016.

[No. L-29012/32/2013-IR(M)]
SAMIR KUMAR DAS, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 64/2013

No. L-29012/32/2013 – IR(M), dated 23.08.2013

Date of Passing Order – 5th May, 2016

Between:

M/s. Trinity Commercial Pvt. Ltd.,
 Contractor of M/s. Serajuddin & Co.
 Balda Block Iron Mines,
 At./Po. Baneikela, Via. Joda,
 Dist. Keonjhar, Odisha.

...1st Party-Management

AND

Shri Ram Singh Badra,
 At./Po. Balda, Via-Joda,
 Dist. Keonjhar (Odisha)

...2nd Party-Workman

Appearances:

None	...	For the 1 st Party- Management.
None	...	For the 2 nd Party-Workman

ORDER

The Government of India in the Ministry of Labour & Employment has referred the present dispute existing between the employers in relation to the Management of M/s. Trinity Commercials Pvt. Ltd., and their workman Ram Singh Badra in exercise of the powers conferred under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) vide their Letter No. L-29012/32/2013 – IR(M), dated 23.08.2013 to this Tribunal for adjudication.

2. That the 2nd Party-workman has sent his statement of claim by post on 22.10.2013. He has not filed any documents to substantiate his case. Since he did not take any step except sending statement of claim by post the 2nd Party-workman was noticed on 19.12.2014 through regd. post for his appearance, but he has not turned up. Again after the new P.O. Joins a fresh notice was issued to the 2nd party-workman on 10.3.2016 for his appearance. Notice issued to him seems to have been duly served. But, the 2nd Party-workman did not appear.

3. On the other hand, the 1st Party-Management did not file its written statement, though the 2nd Party-workman has served a copy of statement of claim on them through post. Also, notice was issued to the 1st Party-Management to file its written statement on 10.3.2016 from this Tribunal, but, neither the 1st Party-Management appeared nor any step taken by it.

4. It appears from the above acts of the parties that either they have lost their interest in the case or they might have resolved their disputes amicably out of the court. In the given circumstances, a no-dispute award is required to be passed and accordingly a no-dispute award is passed in the case.

5. The reference is answered in the above terms.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 13 जून, 2016

का.आ. 1230.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ट्रिनिटी कर्मशियल प्रा. लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट (संदर्भ संख्या 66/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/06/2016 को प्राप्त हुआ था।

[सं.एल-29012/34/2013-आईआर(एम)]

समीर कुमार दास, अवर सचिव

New Delhi, the 13th June, 2016

S.O.1230.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/2013) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Trinity Commercial Pvt. Ltd. and their workman, which was received by the Central Government on 07/06/2016.

[No. L-29012/34/2013-IR(M)]
 SAMIR KUMAR DAS, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present:

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 66/2013

No. L-29012/34/2013 – IR(M), dated 23.08.2013/02.09.2013

Date of Passing Order – 5th May, 2016

Between:

M/s. Trinity Commercial Pvt. Ltd.,
Contractor of M/s. Serajuddin & Co.
Balda Block Iron Mines,
At./Po. Baneikela, Via. Joda,
Dist. Keonjhar, Odisha.

...1st Party-Management

AND

Shri Umakant Naik,
At./Po. Balda, Via-Joda,
Dist. Keonjhar (Odisha)

...2nd Party-Workman

Appearances:

None	...	For the 1 st Party-Management.
None	...	For the 2 nd Party-Workman

O R D E R

The Government of India in the Ministry of Labour & Employment has referred the present dispute existing between the employers in relation to the Management of M/s. Trinity Commercials Pvt. Ltd., and their workman Umakant Naik in exercise of the powers conferred under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) vide their Letter No. L-29012/34/2013 – IR(M), dated 23.08.2013/02.09.2013 to this Tribunal for adjudication.

2. That the 2nd Party-workman has sent his statement of claim by post on 22.10.2013. He has not filed any documents to substantiate his case. Since he did not take any step except sending statement of claim by post the 2nd Party-workman was noticed on 29.12.2014 through regd. post for his appearance, but he has not turned up. Again after the new P.O. Joins a fresh notice was issued to the 2nd party-workman on 10.3.2016 for his appearance. Notice issued to him seems to have been duly served. But, the 2nd Party-workman did not appear.

3. On the other hand, the 1st Party-Management did not file its written statement, though the 2nd Party-workman has served a copy of statement of claim on them through post. Also, notice was issued to the 1st Party-Management to file its written statement on 10.3.2016 from this Tribunal, but, neither the 1st Party-Management appeared nor any step taken by it.

4. It appears from the above acts of the parties that either they have lost their interest in the case or they might have resolved their disputes amicably out of the court. In the given circumstances, a no-dispute award is required to be passed and accordingly a no-dispute award is passed in the case.

5. The reference is answered in the above terms.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 13 जून, 2016

का.आ.1231.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स खजान सिंह एण्ड सन्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद पंचाट (संदर्भ संख्या 195/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/06/2016 को प्राप्त हुआ था।

[सं. एल-29012/29/1993-आईआर(एम)]

समीर कुमार दास, अवर सचिव

New Delhi, the 13th June, 2016

S.O.1231.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 195/1994) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Khajan Singh & Sons and their workman, which was received by the Central Government on 07/06/2016.

[No. L-29012/29/1993-IR(M)]

SAMIR KUMAR DAS, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 195 of 1994

Employer in relation to the management of M/S Khajan Singh & Sons

AND

Their workman

Present: Shri R.K.Saran, Presiding Officer

Appearances:

For the Employers : None
For the workman : None

State : Jharkhand.

Industry- Stone Mines
Dated- 23/05/2016

AWARD

By order No. L-29012/29/1993-IR (M) dated 29/07/1994, the Central Government in the Ministry of Labour has, in exercise the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/S Khajan Singh & Sons in terminating the services of Shri Surendra Kumar Jaiswal and refusal to take him back in employment with full back wages is justified? If not, to what relief the workman is entitled to?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 13 जून, 2016

का.आ.1232.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ऑयल इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर पंचाट (संदर्भ संख्या 49/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/06/2016 को प्राप्त हुआ था।

[सं. एल-30011/3/2015-आईआर(एम)]

समीर कुमार दास, अवर सचिव

New Delhi, the 13th June, 2016

S.O. 1232.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/2015) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Oil India Ltd. and their workman, which was received by the Central Government on 07.06.2016.

[No. L-30011/03/2015-IR(M)]
SAMIR KUMAR DAS, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY

PRESIDING OFFICER

I.D.No. 49/2015

Reference No.L-30011/3/2015-IR(M)

dated: 6.5.2015

The General Manager
Rajasthan Oil Casual Employees
Union (CITU),
House No. 3G/84, Kudi – Bhagtasni,
Housing Board, Jodhpur.

V/s

General Manager
Oil India Ltd., 2A,
Saraswati Nagar, District Shopping
Centre, Basni, Jodhpur.

AWARD

29.4.2016

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 and 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“Whether the action of the management of M/s. Oil India Ltd. Jodhpur (Raj.) for non-payment of bonus to the casual workers @ 20% for the year 2013-14 is legal or justified ? If not, what relief concerned workmen are entitled to?”

2. Pursuant to the receipt of the reference order, registered notices were issued to both the parties as per the order of the tribunal dated 18.5.2015 fixing 29.10.2015 for filing statement of claim. On 29.10.2015 learned representative of both the parties appeared but statement of claim was not filed. Oral adjournment on behalf of applicant was accepted and 4.1.2016 was fixed for filing statement of claim.

3. On 4.1.2016 both the parties were absent & presiding officer was on leave. 3.2.2016 was next date fixed for filing statement of claim. On 3.2.2016 both the parties were absent and statement of claim was not filed. Order was passed by tribunal to file statement of claim on next date 29.2.2016 with direction that in absence of statement of claim opportunity for filing the claim will be closed. Accordingly, the case was adjourned fixing 29.2.2016 for filing statement of claim. On 3.2.2016 after passing of above order learned representative for opposite party Sh. Rajesh Jain, advocate appeared & filed his authority to represent the opposite party.

4. On 29.2.2016 neither anyone appeared on behalf of applicant nor statement of claim was filed. Learned representative of opposite party was present. Case was adjourned in the interest of justice providing last opportunity to the applicant for filing statement of claim on 28.3.2016. On 28.3.2016 both the parties were absent and presiding officer was on leave. Again opportunity was given to the applicant for filing statement of claim on 7.4.2016.

5. On 7.4.2016 both the parties were absent. Once again case was adjourned providing last opportunity to the applicant to file statement of claim on 28.4.2016. After order learned representative of opposite party appeared who was apprised of the next date fixed in the case. On 28.4.2016 both the parties were absent. Neither anyone appeared on behalf of applicant nor statement of claim was filed. Case was fixed in the afternoon. In the afternoon session none appeared on behalf of applicant. Learned representative of opposite party appeared and objected to number of opportunities being extended to the applicant by tribunal on its own motion without anyone appearing from applicant side and asking further time for filing statement of claim. In above circumstances, further opportunity to the applicant for filing statement of claim was closed and case was reserved for award.

6. It is pertinent to note that on 6.5.2015 reference order was sent by Ministry to applicant with direction to file statement of claim within 15 days from the date of receipt of reference. Applicant has neither filed statement of claim on the direction of Ministry nor on notice and knowledge of the proceeding pending before the tribunal. It appears that applicant is not interested and willing in submitting the claim for adjudication. In the circumstances and in the absence of material evidence brought on record, tribunal is unable to record the finding on the issues referred to it on merit. Accordingly, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

7. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 13 जून, 2016

का.आ.1233.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स मैक्स न्यूयॉर्क लाईफ इंश्योरेंस कंपनी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 72/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-06-2016 को प्राप्त हुआ था।

[सं. एल-17012/4/2012-आईआर(एम)]

समीर कुमार दास, अवर सचिव

New Delhi, the 13th June, 2016

S.O.1233.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 72/2012) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Max New York Life Insurance Company Ltd. and their workman, which was received by the Central Government on 07/06/2016.

[No. L-17012/4/2012-IR(M)]
SAMIR KUMAR DAS, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/72/2012

Shri Pradeep Jain,
S/o Shri Hirala Road,
Ratlam (MP)

...Workman

Versus

Chairman-cum-Managing Director,
Max New York Life Insurance Company Ltd.,
Max House 1, Doctor Jha Marg,
Okhla, New Delhi.

...Management

AWARD

Passed on this 5th day of April 2016

- As per letter dated 4-6-2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-17012/4/2012- IR(M).The dispute under reference relates to:
"Whether the action of the management of Chairman-cum-Managing Director, Max New York Life Insurance Company Ltd., Okhla, New Delhi in terminating Shri Pradeep Jain without following the provision of ID Act, 1947 w.e.f. 6-1-2011 is legal and justified? What relief the workman is entitled to?"
- After receiving reference, notices were issued to the parties. 1st party workman submitted statement of claim on 13-5-2014. Case of 1st party workman is that he was appointed as Sales Manager at Ratlam. His duty was to appoint agent and assist them in business of 2nd party. His nature of duties was as workman. Appointment letter was issued to him on 24-4-08 in Band IV. The age of retirement was 58 years. He was appointed on probation for six months. He did not violate any conditions of his appointment. The policy related to harassment at work place is produced at Annexure A-3. Said policy is not followed by 2nd party. Workman had submitted his grievances to the authorities. However any action was not taken by the management.
- Workman submits that 2nd party is proposing to close all 148 offices in MP. Any arrangement for welfare of the employees is not paid. 2nd party has started retrenchment of employees high handedly. Workman was also pressurized for submitting resignation from service. Workman did not agree to it. The mother of workman is about 74 years suffering from heart disease. Branch Manager Shri Rahul Pathak on 3-9-2010 called all the employees and told that the branch offices were to be closed at other places. On 14-9-2010, workman was called at Ratlam office. Shri Sudhir Sharma and Bakshi held meeting and pursued employees for submitting resignation. They were confined in the cabin on 18-9-2010, workman received message on his mobile calling him at Indore office. Workman was pursued for submitting resignation. Workman was also given understanding that if he would not give resignation, he would be transferred to far away place and they will see how he will manage his duties. Workman was threatened if he doesnot quit his service, he would be transferred to Bulan city. Workman was transferred to Bulan city 800 kms. from Ratlam. Workman is transferred with malafide object violating service conditions. Letter was given by workman on 25-9-2010 objecting his transfer to Bulan city. On 6-1-2011, workman was terminated illegally. He was not served with any chargesheet or notice. On such contentions, workman prays for reinstatement with backwages.
- 2nd party failed to file Written Statement. 2nd party was proceeded ex parte on 16-1-2015.
- Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Chairman-cum-Managing Director, Max New York Life Insurance Company Ltd., Okhla, New Delhi in terminating Shri Pradeep Jain without following the provision of ID Act, 1947 w.e.f. 6-1-2011 is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order

REASONS

- Workman in his statement of claim is challenging termination order for violation of provisions of ID Act. Management not filed Written Statement and not participated in reference proceeding.
- Workman filed affidavit of his evidence supporting his contentions in statement of claim. From evidence of workman, documents Exhibit W-1 to 18 are admitted in evidence. 2nd party remained absent. Evidence of workman remained unchallenged.
- Documents Exhibit W-1 is order of appointment of workman. Exhibit W-2 is work place harassment policy provides for resolution of grievance/ committee to decide venue and settings etc. Exhibit W-3 is record submitted by workman to police station, Ratlam about his harassment. Exhibit W-4 is order of transfer of workman. Exhibit W-5 is letter forwarding complaint by workman. Exhibit W-6 is letter dated 1-11-2010 pertaining to non-payment of salary of workman. Exhibit W-7 is notice issued by workman. W-8 is reply to the notice. W-9 is letter of appreciation given to workman. Exhibit W-10/1 to 10/5 are recruitment achiever awarded to workman. Exhibit W-11 is medical certificate, W-12 is postal receipt. W-13 is letter dated 10-11-2010 by workman. W-14 is letter given by workman to HR Manager. Exhibit W-17 is termination order. W-18 is letter issued by management accepting resignation of workman.

9. As evidence of workman remained unchallenged. The contention that his duty were as workman. His statement of claim and evidence remained undisputed. In evidence of workman, his services were terminated violated provisions of ID Act remained unchallenged. Therefore it is established that services of workman are terminated in violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No. 1 in Negative.

10. Point No.2- workman is terminated without notice in violation of Section 25-F of ID Act. Management has not participated in reference proceeding. No evidence is adduced by 2nd party. However the amount claimed by workman in his affidavit of evidence Rs. 4 Lakh for illegal termination with interest 12 % cannot be allowed. As no evidence is adduced by workman is in gainful employment after termination of his service, reinstatement of workman with backwages would be appropriate. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

(1) The action of the management of Chairman cum Managing Director, Max New York Life Insurance Company Ltd., Okhla, New Delhi in terminating Shri Pradeep Jain without following the provision of ID Act, 1947 w.e.f. 6-1-2011 is not proper and legal.

(2) 2nd party is directed to reinstate workman with continuity of service with full backwages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 जून, 2016

का.आ.1234.—औद्योगिक विवाद अधिनियम,1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स तमिलनाडु मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चैन्नई पंचाट (संदर्भ संख्या 114/2015)को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-06-2016 को प्राप्त हुआ था।

[सं. एल-29011/7/2015-आईआर(एम)]

समीर कुमार दास, अवर सचिव

New Delhi, the 13th June, 2016

S.O.1234.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 114/2015) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Tamil Nadu Minerals Ltd. and their workman, which was received by the Central Government on 07-06-2016.

[No. L-29011/7/2015-IR(M)]
SAMIR KUMAR DAS, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Tuesday, the 26th April, 2016

Present : K. P. PRASANNA KUMARI. Presiding Officer

Industrial Dispute No. 114/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Tamil Nadu Minerals Ltd. and their workman).

BETWEEN :

The Secretary
 Tamil Nadu Kanima Niruvanan Uzhiyar Sangam
 No. 27, Mosque Street
 Chepauk
Chennai-600005

...1st Party/Petitioner Union

AND

The Managing Director
 TAMIN, Kamaraja Salai
 Chepauk
Chennai-600005

...2nd Party/Respondent

Appearance:

For the 1st Party/Petitioner Union : M/s. Pradeep Jayaraman, Advocates
 For the 2nd Party/1st Respondent : Sri T.R. Sathiyamohan, Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-29011/7/2015-IR(M) dated 21.07.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of TAMIN regarding denial as well as discrimination in granting of Earned Leave to the Mining Workers is justifiable or not? If not, to what relief the workmen are entitled to?

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 114/2015 and issued notices to both sides. Both sides have entered appearance and filed their Claim and Counter Statement respectively.

3. The case in the Claim Statement in brief is this:

The people working in the Respondent establishment have been classified as Staff and Workers. The staff working in Mines and Quarries are Senior Mines Foreman, Mines Foreman, Mine Mate, Blaster, Crane Operator, Excavator Operator, Tractor Driver-cum-Compressor Operator, Tipper Driver, Heavy Vehicle Driver, Compressor Operator, Operator (Machinist), Operator (Fitter), Operator (Turner), Welder and Diesel Mechanic. The service conditions of the staff is governed by the Service Rules of the Tamil Nadu Minerals Ltd. The service conditions of the workers is governed by the Standing Orders for Workmen in Mines and Quarries of Tamil Nadu Minerals Ltd. the members of the Petitioner Union fall under the category of the staff and are governed by the Service rules of the Tamil Nadu Minerals Ltd. As per the Service Rules of Tamil Nadu Minerals Ltd. the members of the Petitioner Union are eligible for Earned Leave @ 2.5 days for each completed calendar month of service. Encashment can be availed upto 240 days at the end of the service. However, contrary to the Service Rules they are given Earned Leave @ 1 day per each completed calendar month of service. At the end of the service only 30 days un-availed leave can be encashed. Though a representation was given to the Respondent for the grant of eligible leave there was no reply from the Respondent. The dispute is raised accordingly. An award may be passed directing the Respondent to give Earned Leave to the members of the Petitioner Union @ 2.5 days for each completed calendar month of service as per Service Rules of the Tamil Nadu Minerals Ltd.

4. The Respondent has filed Counter Statement contending as below:

The employees of the Respondent are broadly classified into two categories. Ministerial or Administrative Officers and Staff who are working in the Head Office at Chennai and also Technical Officers and Staff working in various mines and quarries are governed by the Service Rules of TAMIN. The workmen employed in the various mines and quarries come under the second category and are governed by the Certified Industrial Standing Orders alongwith the provisions of the Mines Act. The members of the Petitioner Union fall under the first category and are governed by Service Rules. The demand of the Petitioner Union for grant of Earned Leave @ 2.5 days for each completed calendar month of service was not in accordance with the Service Rules or the Certified Standing Orders. The petitioner is not entitled to any relief.

5. The evidence in the case consists of documents marked as Ext.W1 to Ext.W8 and Ext.M1 and Ext.M2. Oral evidence was not adduced by either side.

6. **Point for consideration is:**

Whether the members of the Petitioner Union are entitled to Earned Leave as claimed by the petitioner?

7. It is the case of the petitioner that all its members come under the category of staff working in Mines and Quarries. Mines and Quarries are governed by the Service Rules of Tamil Nadu Minerals Ltd. It is further stated that the workmen category in the Mines and Quarries are governed by the standing Orders. The grievance of the petitioner is that as per the Service rules of Tamil Nadu Minerals Ltd. the members of the Petitioner Union are eligible for Earned Leave @ 2.5 days for each completed calendar month of service but they are given Earned Leave only @ 1 day for each completed calendar month of service. According to them they are entitled to Earned Leave at the rate claimed by them.

8. A look at the Service Rules of the Respondent would show that the staff category is entitled to Earned Leave as claimed by the petitioner. Clause-10.4.2 (a)(i) states that Earned Leave shall be credited to the leave account of a Permanent Officer/Staff @ 2.5 days for each completed calendar month of service which he is likely to render in a half year of the calendar year in which he is appointed.

9. However, for the reason that the petitioner is claiming relief based on the Service Rules of Tamil Nadu Minerals Ltd., it is not entitled to any relief. The staff category coming under the Service Rules are not workmen as defined in the Industrial Disputes Act. The definition given to the word "Staff" in Service Rules alongwith the definition given to the workmen in the Standing Orders will make this clear. As per the Standing Orders, workmen are persons employed in the establishment of the Company as defined under Section-2h of the Mines Act except any such persons employed in a supervisory capacity drawing wages exceeding Rs. 1,600/- per mensem or exercises either by nature of the duties attached to the office or by reason of the powers vested in him functions, mainly of a managerial nature. So it is clear that only those employees governed by the Standing Orders are workmen and would be governed by the Industrial Disputes Act. On the other hand the staff being governed by the Service Rules, they cannot approach this Tribunal for relief. This Tribunal has no jurisdiction to decide on the grievance in respect of those coming under the staff category or any dispute raised on behalf of staff category. The claim of the petitioner is to be rejected for this reason.

10. In the result the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 26th April, 2016)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None
For the 2nd Party/Management : None

Documents marked:

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	26.05.2014	Representation sent by 1 st Party to 2 nd Party for EL and Other Benefits.
Ext.W2	01.09.2014	Representation from 1 st Party to Labour Commissioner under Section-2(K) of Industrial Dispute Act, 1947.
Ext.W3	20.11.2014	Counter of 2 nd Party
Ext.W4	19.01.2015	Additional Counter of 2 nd Party
Ext.W5	19.01.2015	Additional Points of 1 st Party
Ext.W6	05.03.2015	Additional Counter of 2 nd Party
Ext.W7	07.04.2015	Conciliation failure report submitted by Asstt. Labour Commissioner.
Ext.W8	-	Extract of Rule 10.04 of TAMIL SERVICE RULES

नई दिल्ली, 13 जून, 2016

का.आ.1235.—ौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसरस एस.बी. इंजीनियरिंग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ौद्योगिक विवाद में केन्द्रीय सरकार ौद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 54/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/06/2016 को प्राप्त हुआ था।

[सं. एल-30012/27/2013-आईआर(एम)]

समीर कुमार दास, अवर सचिव

New Delhi, the 13th June, 2016

S.O.1235.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 54/2013) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. S.B. Engineering and their workman, which was received by the Central Government on 08/06/2016.

[No. L-30012/27/2013-IR(M)]
SAMIR KUMAR DAS, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 54 of 2013

Parties: Employers in relation to the management of M/s. S.B. Engineering

AND

Their workmen

Present: Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : None
Management

On behalf of the Union : Mr. Partha Mukherjee, Ld. Counsel.

State: West Bengal.

Industry: Petroleum

AWARD

Dated: 31st May, 2016

By Order No.L-30012/27/2013-IR(M) dated 01.10.2013 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“(1) Whether the action of the management of M/s. S.B. Engineering, a contractor of IOCL (Marketing Division), Haldia Oil Installation, is legal and justified in terminating the services of Shri Nandlal Manna, Shri Arun Kumar Pal and Shri Tapan Kumar Midya vide letter dated 2.7.2012? What relief the workmen are entitled to?”

2. Brief of all unnecessary details, the case of the workmen is as follows:

More than 20 years ago the concerned workmen were appointed by M/s. K.B. Das & Sons, a contractor under the principal employer, Indian Oil Corporation. Since appointment they used to work at Haldia Oil Jetty under Haldia Dock Complex. The principal employer used to pay all monetary benefits and other facilities to them in terms of

settlement of charter of demands raised by the union from time to time. Subsequently, in 2009 after expiry of agreement with M/s. K.B. Das & Sons, the Administrative Division of the Indian Oil Corporation (Marketing Division) engaged M/s. S.B. Engineering as contractor in place of M/s. K.B. Das & Sons and accordingly the concerned workmen were engaged by M/s. S.B. Engineering as workers for doing the same job. As per the terms of Tripartite Settlement with the principal employer and the union the said contractor used to provide all benefits and facilities to the workmen. The contractor also used to issue gate pass and Photo Code Number in favour of the workmen. Such gate passes were lastly renewed on 17th March, 2012 and the same were required to be renewed by 16th June, 2012. It is also alleged that on 26th May, 2012 some members of INTTUC snatched the gate pass of shri Arun Pal and the same was not returned.

It is the contention of the workmen that M/s. S.B. Engineering did not renew the gate passes of the concerned workmen and by a letter dated 01.07.2012 M/s. S.B. Engineering informed the workmen that as per the direction of the leaders of the union (Thika Shramik Mazdoor Union, affiliated by INTTUC) it had stopped issuing gate pass (Ext. W-06) meaning thereby that the said workmen were not permitted to join their duties on and from 02.07.2012. Several requests of the said workmen before the management yielded no result. Accordingly the industrial dispute was raised by the workmen. Hence the present reference.

3. The management inspite of receiving notice did not turn up to contest the case. As a result the case was heard *ex parte*.
4. In course of hearing argument, one of the concerned workmen namely Shri Arun Kumar Pal filed a petition informing that S/Shri Nandalal Manna and Tapan Kumar Midya have been given employment by the Company.
5. In this reference case the concerned workmen in support of their case have examined one witness who is one of those workmen. They have also proved some documents which are marked Exhibits W-01 to W-19.
6. It is the contention of the workmen that they were appointed by M/s. K.B. Das & Sons about 20 years ago and thereafter they worked under M/s. S.B. Engineering when Indian Oil Corporation (Marketing Division) engaged M/s. S.B. Engineering as contractor. Such contentions have been corroborated by the documents filed on behalf of the workmen.
7. The document marked Ext. W-07 also goes to show that Arun Kumar Pal lodged complaint with the Haldia Police Station informing that his Gate Pass was forcibly taken away by Shyamal Adak & others.
8. Ext. W-06 goes to show that due to the pressure created by the leaders of Thika Shramik Mazdoor Union, M/s. S.B. Engineering refused to issue Gate Pass in favour of the concerned workmen and thereby terminated/retrenched the workmen by preventing them to join their duties.
9. It is contended that at the time of retrenchment the provision of the Industrial Disputes Act, 1947 were not complied with.
10. Here in this case the management has not opposed the above contention. There is nothing to disbelieve the said contention of the workmen.
11. Unchallenged testimony of the witness (one of the concerned workmen) namely, Arun Kumar Pal also corroborates the entire contention of the workmen as disclosed in the statement of claim and there is nothing to disbelieve the said evidence of the witness.

12. Considering the facts and circumstances and unchallenged testimony of the witness and the documents of the workmen, it appears that the management retrenched the workmen without complying with the provisions of the Industrial Disputes Act, 1947.
13. In view of the discussion made above, the order of reference is answered in the negative. The workmen should be reinstated in service with full back wages.
14. Award is passed accordingly.

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,
The 31st May, 2016

नई दिल्ली, 13 जून, 2016

का.आ.1236.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स दि न्यू इण्डिया एश्योरेंस कम्पनी लिमिटेड और दूसरों के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुवंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, अजमेर पंचाट (संदर्भ संख्या 04/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/06/2016 को प्राप्त हुआ था।

[सं. एल-17012/25/2011-आईआर(एम)]

समीर कुमार दास, अवर सचिव

New Delhi, the 13th June, 2016

S.O. 1236.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04/2011) of the Industrial Tribunal/Labour Court, Ajmer now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. The New India Assurance Company Ltd. & others and their workman, which was received by the Central Government on 08/06/2016.

[F. No. L-17012/25/2011-IR(M)]
SAMIR KUMAR DAS, Under Secy.

अनुबंध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर

पीठासीन अधिकारी- श्री सत्यनारायण व्यास, आर.एच.जे.एस

प्रकरण संख्या- सीआईटीआर संख्या 04/2011

रेफरेंस संख्या- एल-17012/25/2011-आई.आर.(एम) दिनांक 03.11.2011

श्री गोपाल सोनी, सी-11, पंचशील नगर, अजमेर – 305004 (राज.)

...प्रार्थी/श्रमिक

बनाम

1. मण्डल प्रबंधक, दि न्यू इण्डिया एश्योरेंश कम्पनी लिमिटेड, खाइलेण्ड, अजमेर
2. चेयरमेन कम मैनेजिंग डायरेक्टर, दि न्यू इण्डिया एश्योरेंस कम्पनी लि., 87,

एमजीआई रोड, मुम्बई – 400001

...अप्रार्थी/ नियोजकगण

उपस्थिति

प्रार्थी की ओर से : कोई उपस्थित नहीं।
 अप्रार्थी की ओर से : श्री पुनीत मेहरा अधिवक्ता - प्रतिनिधि

अवार्ड

दिनांक 12.04.2016

1. केन्द्र सरकार की ओर से इस न्यायालय के निर्णयार्थ निम्न विवाद प्रेषित किया गया है:-

1. क्या प्रबंधन न्यू इण्डिया एश्युरेन्स कम्पनी लिमिटेड, अजमेर के द्वारा श्री गोपाल सोनी हिन्दी अनुवादक को दण्डादेश दिनांक 16.11.2009 से नौकरी से बखास्त किया जाना न्यायोचित तथा न्यायसंगत है।

2. क्या प्रबंधन न्यू इण्डिया एश्युरेन्स के द्वारा आदेश दिनांक 09.06.2011 के द्वारा नौकरी पर वापस लेते हुए कर्मकार को अजमेर से अहमदाबाद स्थानान्तरण किया जाना न्यायोचित तथा न्यायसंगत है?

3. क्या प्रबंधन ने उपरोक्त दोनों आदेशों क्रमशः दिनांक 16.11.2009 तथा 9.6.2011 के फलस्वरूप कर्मकार की वेतन वृद्धि वर्ष 2009, 2010 व 2011 का नहीं दिया दिनांक 10.4.2008 से लेकर आज तक का बेक वेज तथा दिनांक 1.8.2007 से डयू वेज रिविजन का नहीं दिया न्यायोचित तथा न्यायसंगत है। यदि नहीं तो कर्मकारान किस अनुतोष का अधिकारी है?

2. प्रार्थी पक्ष की ओर से आज कोई उपस्थित नहीं है। दिनांक 10.10.2015 को प्रार्थी ने एक पत्र इस न्यायालय को प्रेषित कर कथन किया है जो इस न्यायालय को दिनांक 15.10.2015 को प्राप्त हुआ जिसमें वर्णित किया गया है कि वह इस प्रकरण को आगे नहीं चलाना चाहता है और प्रकरण विथड़ा करना चाहता है। प्रार्थी आदेशिका दिनांक 06.02.2015 से गत 7 पेशियों से अनुपस्थित चल रहा है। ऐसे में यही क्यास जावेगा कि प्रार्थी की अब इस प्रकरण में कोई रूचि नहीं है तथा वह इस प्रकरण को आगे नहीं चलाना चाहता है। अप्रार्थी ने प्रार्थी के पत्र दिनांक 15.10.2015 पर अपनी अनापत्ति भी प्रस्तुत कर दी है। ऐसी स्थिति में भेरे विनम्र मत में "कोई विवाद नहीं अवार्ड" पारित किया जाना न्यायोचित है।

3. उपरोक्त संपूर्ण विवेचन के आधार पर इस रेफरेंस के संबंध में निम्न अवार्ड पारित किया जाता है।

आदेश-अवार्ड

फलतः केन्द्र सरकार द्वारा प्रेषित रेफरेंस का उत्तर इस प्रकार से दिया जाता है कि प्रार्थी इस प्रकरण को आगे नहीं चलाना चाहता है और उसने स्वयं अपने पत्र दिनांक 10.10.2015 से लिखित में इस न्यायालय से प्रकरण को विथड़ा करने की अनुमति चाही है जिसके आधार पर प्रार्थी को उक्त प्रकरण को विथड़ा करने की अनुमति प्रदान की जाती है इस प्रकरण में "कोई विवाद नहीं अवार्ड" पारित किया जाता है।

सत्यनारायण व्यास, न्यायाधीश

नई दिल्ली, 14 जून, 2016

का.आ.1237.— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रिलायंस कम्प्यूनिकेशंस लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 52/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 13/06/2016 को प्राप्त हुआ था।

[सं. एल-40011/21/2009-आईआर (डीयू)]
 पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 14th June, 2016

S.O.1237.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No.52/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Reliance Communications Ltd. and their workman, which was received by the Central Government on 13/06/2016.

[No. L-40011/21/2009-IR(DU)]
 P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

RAKESH KUMAR,
PRESIDING OFFICER

I.D. No. 52/2009

Ref.No. L-40011/21/2009-IR(DU) dated 31.10.2009

BETWEEN :

Sri Swadesh Kumar Srivastava
 S/o Late Sri K.C. Srivastava, H.No.E-364,
 Sector F, Jankipuram
 Lucknow-226021

AND

1. Human Resource Department,
 M/s. Reliance Communications Limited,
 2nd Floor, Magnum Plaza, Eldeco Greens,
 Gomti Nagar, Lucknow

2. Registered Office
 M/s. Reliance Communications Limited,
 H-Block, 1st Floor Dhirubhai Ambani
 Knowledge City
 Navi Mumbai-400710

AWARD

1. By order No. L-40011/21/2009-IR(DU) dated 30.10.2009 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri Swadesh Kumar Srivastava S/o Late Sri K.C. Srivastava and the M/s Reliance Communications Limited, Lucknow/Navi Mumbai for adjudication.

2. The reference under adjudication is:

“WHETHER SHRI SWADESH KUMAR SRIVASTAVA IS A WORKMAN OF THE MANAGEMENT OF M/S RELIANCE COMMUNICATION LTD.? IF YES, WHETHER THE ACTION OF THE MANAGEMENT IN NOT ALLOWING HIM TO JOIN HIS DUTIES W.E.F. 12.07.2008 IS LEGAL AND JUSTIFIED? IF NOT, WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

3. As per the claim statement w3, the workman has stated in brief that he was appointed in the opposite party company on the post of L3-LEVEL-PCO vide letter dated 07.10.2004, his services were confirmed on 19.04.2005, his work, conduct and performance always remained satisfactory and in the year 2005-06 he was also appreciated for better performance, opposite party company revised his compensation from 229999.00 to Rs.256616.00 p.a., one time reward of Rs.16559.99 was also given to him.

4. The workman has further stated that in the month of May 2006 he was asked by his officers to do installation of PCO and RCP on fake identification and fake address proof, but since it was against license agreement and TRAI guidelines and was against National Security he politely refused, which annoyed his superiors and they threatened him, he was harassed and was transferred to smaller place rationalization of pay was also not done, his promotion was not considered, again in Feb.2007 he was transferred to another smaller place, his

superiors directed him in May 2007 to submit resignation, in Dec.2007 he was transferred to Barabanki, his seniors did not behave properly.

5. It has also been stated in the claim statement that from 1.4.2008 to 15.4.2008, workman remained on sick leave which was duly approved in the system by concerned officials. Besides attendance for the date 16.4.2008 and leave for the period 17.4.2008 to 15.5.2008 was also approved and updated in the system. Even then part salary for the month of April 2008 was not paid to me. Apart from the above, salary from the month of May 2008 was also not paid without any information or notice giving reasons for the same. The continuing harassment, reimbursement/payments for several tours for the year 2007, with the company's work, which were duly approved in the system by concerned authorities, were first of all rejected and were, paid subsequently in the month of Feb.2008 by delaying it for several months. These payments were delayed deliberately. The workman suffered due to company's continuous harassment by way of delayed payment of genuine claims, frequent transfers particularly to less important posts and places and non- payment of salary in time. Vide letter dated 7.6.2008 the company informed that workman had not been attending the office since last 5-6 months. The contents of company's letter were not true and it was duly replied vide letter dated 21st June 2008 informing the company all details of workman's presence and duly approved leave. The workman also joined the duties on 21st June 2008. The workman marked attendance in the system as per rules for June 2008 which was rejected by concerned authority in the system.

6. The workman further stated that he submitted representation dated 3.7.2008 and reminders dated 11.7.2008 & 6.8.2008 which all remained unrepplied by the company. The letter dated 6.8.2008 addressed to company's Mr. Jeeraj Khandelwal, Sales Head (PCO) & sent by speed post Receipt No. spEU949302195 IN dated 7.8.2008 was returned undelivered with the reason written on the closed envelope by postal authorities "refused to receive, hence returned". This shows that company's concerned authorities are adamant to harass the workman and are not listening to workman's genuine grievances. The system has been locked by the company and he was not being allowed to mark attendance and workman also not being assigned any work. The workman not being paid salary and not allowed to mark attendance, and not assigned any work and is being continuously put to harassment without any reason or notice and only because workman did not agree to carry out the work in illegal manner as asked for by senior officers of the company. On not solving the grievances by the company despite repeated requests, workman served a legal notice upon the company on 14.10.2008 vide which the company was given 15 days time to solve the grievances. Though grievances remained unsolved except that workman got a telephonic message from the bank that Rs.98311.00 has been credited in the bank account on 10.11.2008 being salary. Since workman got no information from the company in this respect and he was unable to know the exact period upto which salary has been paid though part payment of salary is still pending. It is also established that company has not paid him salary in time deliberately causing harassment.

7. It has further been stated in claim statement that the applicant did not receive any reply of the legal notice then on 14.11.2008 he lodged a complaint before Dy. Labour Commissioner, UP Govt. Lucknow who also advised him to contact RLC(C) Lucknow thereafter on 2.3.2009 he lodge complaint before the RLC (C) Lucknow. It has also been asserted that during the pendency of the matter before UP Govt. the opposite party informed vide a letter dated 14.11.2008/29.11.2008 that the applicant had tendered resignation and he had also accepted the token amount of Rs.98311/- being full and final payment but in fact the workman had never submitted resignation, he refuted the contents of the letter and requested to provide alleged resignation but they did not supply it before the RLC (C) Lucknow till 31.08.2009. Relief sought and documents sought before the RLC (C) has also been mentioned in the claim statement.

8. The workman has further asserted that the documents requested were never supplied to him, although he had written letter to the Chairman & Managing Director of the company, thereafter alleged resignation letter was sent to him by the Lucknow office of the opposite party. Alleged resignation letter and signature there upon have been denied by the applicant. With the above pleadings the workman has requested for payment of up to date salary along with increments and permission to work properly according to his seniority and past performance and rationalization of pay w.e.f. 1.4.2006. Along with claim statement several documents have also been filed by the workman.

9. The opposite party has filed written statement M7, wherein main allegation of the claim statement has been denied. The opposite party has asserted that the applicant is not covered under the definition of the "workman" as provided in the I.D. Act., his post was purely supervisory administrative and managerial, many employees were working under him, he has drawn more than 1600/- per month as wages. It has further been stated in M7 that it is not case of termination of services but a case where the applicant has himself willfully resigned from his services at his own free will.

10. The opposite party has further stated that it is a Public Limited Company incorporated under the Companies Act, 1956 having its registered office at Navi Mumbai, the workman was directly under administrative control of registered office, his service record was maintained there and his wages were paid from there, therefore jurisdiction for any dispute or complaint lies at Navi Mumbai, and not at Lucknow, the RLC (C) Lucknow did not have any jurisdiction to entertain the application moved before him. CGIT-cum-Labour Court, Navi Mumbai has jurisdiction to hear the matter. After resignation of the workman, which was accepted by the management and all his legal dues amounting to Rs. 98311/- have been released as full and final payment and the same has been accepted by the workman without objection or protest, now the workman has no right to prefer any litigation before any court, there does not exist any relation between the management and the complainant since 12.07.2008.

11. The opposite party has stressed that it has got very high reputation in India as well as in abroad and the company does not indulge in any anti national activity on the basis of fake address etc.

12. The allegations of claim statement are also biased, false, baseless and based on concocted story of the complainant as such denied in toto. Transfer of the complainant was routine matter and done purely on exigency of work and to provide opportunity to the complainant to improve his performance and conduct but he failed to improve his work conduct and performance, he remained absent for several months without any leave application and information and was on the verge of termination but before the same could be implemented the complainant tendered his resignation by registered post dated 12.07.2008. The opposite party further stated that claim statement is based on wrong facts and concocted story, as such denied in toto, the work and performance of the complainant was not satisfactory due to this reason only no rationalization of pay and promotion was granted to any employee of the company. The claim statement is also based on wrong facts, concocted story and misconceived as such denied. No officer of the company never asked the complainant to resign from the services, in fact the officer of the company asked the complainant to improve his work, conduct and performance, any question for asking resignation from the complainant does not arise. The complainant was absent from his duties without any leave application/information or sanctioned leave for several months and no leave was due in the account of the complainant. All legal dues of the complainant have been paid by the company after acceptance of resignation by the competent authority of the Head Office.

13. The opposite party further stated that complainant never turned up to join his duties from the month of Jan./Feb. 2008 up to 12.07.2008, hence the question of not allowing the duties to the complainant does not arise. No wages/salary of the complainant was due because the complainant was absent from his duties without any information or sanction of leave since last several months as such neither he earned any salary/wages nor any thing was due to him on salary account, dues were not pending with the opposite party and after submitting resignation by the complainant, management released all his legal dues and credited in his account. There is no relevancy or the purpose of this dispute and the opposite party has no knowledge about the complaints of the complainant.

14. The opposite party further stated that it has got no knowledge about the complaints of the complainant with Labour Department (State as well as Central). The complainant himself admitted that he was working as "Zonal Lead."

15. The management has asserted that the RLC (C) Lucknow had never instructed it to file any document in the proceeding before him, complainant's letter dated 16.09.2009 was properly replied by the opposite party. It is further stated in the written statement that the allegations leveled in the claim statement are false and misconceived, the management has no role in manufacturing resignation of the applicant, he himself had sent his resignation to the company by registered post. With the above pleadings the management has requested to declare the reference order as bad in law, in fact no dispute arose on 12.07.2008, the reference is without jurisdiction, no relation between the management and the workman was in existence, all the dues after resignation of the applicant have been credited to his account which he had accepted without any protest now he has no right to agitate in this regard.

16. With strong denial of the contrary averments mentioned in the written statement, reiterating pleas taken in the claim statement, rejoinder W-8 has been filed by the workman denying the theory of resignation etc. and to adjudicate in his favour the relief sought by him.

17. As per list M-19 & M-20 several documents have been filed by the management.

18. As per list W-29 several documents have been filed by the workman. The management has filed certain documents as per list M-33. Again several documents have been annexed with affidavit of the workman W-34.

19. In evidence the applicant has filed his affidavit, he has been thoroughly cross examined on behalf of the management, the management has filed affidavit of Sri V.K. Singh M-36 and he has also been thoroughly examined on behalf of the workman. Forensic report W-42 along with affidavit W-43 has been filed in the court on behalf of the workman. Hand Writing Expert Sri Anurag Srivastava has been cross examined on behalf of the management.

20. Earlier the objection M-12 dated 09.08.2010 by the opposite party and its reply W-13 dated 3.09.2010, another application M-21 dated 7.12.2011 and clarifications W-23 dated 22.2.2012 and some other applications and objections were also filed in the court.

21. The parties availed opportunity to submit oral arguments.

22. Heard learned authorized representatives of the parties at length and perused record available on file in light thereto.

23. The workman has come up with a case that he was appointed with opposite parties vide letter dated 07.10.2004 on the post of L3 – Level - PCO and was confirmed w.e.f. 19.04.2005 vide letter dated 19.04.2005. It has been alleged by the workman that due to his rigid stand to do his duties in legal way the opposite party got annoyed with him and did not allow him to join the services w.e.f. 12.07.2008 and when he pursued the matter with the Company, he was informed that he himself has resigned from his service. The workman has submitted that the so called resignation letter is forged and he never tendered any resignation letter to the Company and accordingly he should be allowed to join the services with back wages and seniority/continuity etc.

24. Per contra the case of the management is that the applicant does not fall in the definition of ‘workman’ as provided in the Section 2 ‘s’ of the Act and that when the applicant himself has resigned from services and all consequential dues have been credited to his account then there arise no question of taking him back in the service.

The applicant in reply to the preliminary objection has submitted that the nature of job performed by him was not supervisory in nature and accordingly, he very well comes within the definition of ‘workman’ provided in the Act.

25. Having regard to the rival stand taken by the contesting parties and schedule of reference referred to this Tribunal it comes out that the issue involved in present industrial dispute is two pointed. Firstly, as to whether the applicant falls within the definition of ‘workman’ as provided in Section 2 ‘s’ of the Act; and secondly, as to whether the applicant resigned the services through the alleged resignation letter?

26. Now coming to first issued involved, the management has taken preliminary objection to the effect that the applicant does not fall within the definition of ‘workman’ under Section 2 ‘s’, which is vehemently denied by the applicant in his rejoinder. Thus, in view of specific denial by the applicant, the burden of proof shifts on the management to come with the cogent evidence to prove the plea taken by it. The definition of ‘workman’ as provided in the Section 2 ‘s’ of the Industrial Disputes Act, 1947 reads as under:

2. “(s) “*workman*” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

(i)

(ii)

(iii)

(iv) *Who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”*

A bare perusal of the above statutory provision it comes out that a person employed in supervisory or managerial capacity shall be excluded from the definition of ‘workman’. Hence, it is nature of duties which ascertains that a person is workman or not.

The management has raised objection that the post of the applicant was purely supervisory administrative and managerial and so many employees were working under him. On the contrary the applicant has pleaded quite specifically that he used to install PCO and Rural Community Phone and the same was not managerial in nature. Apart from taken preliminary objections the management has not filed any cogent documentary evidence to corroborate its objection that the nature of duties assigned to the applicant were actually managerial or supervisory in nature which kept him out of the purview of the definition of ‘workman’ as quoted hereinabove. Thus, there is no iota of evidence on record to underline the objection taken by the management that the applicant is not a ‘workman’ as provided in the definition of workman under Section 2’s’ of the Act.

27. As regard genuineness of the alleged resignation letter, paper No. 3/39, filed by the workman and paper No. 33/1, filed by the management, the workman has called a Hand Writing Expert to examine the signatures put on the alleged resignation letter, paper No. 33/1, who submitted his detailed report after thorough examination of the disputed

and admitted signatures, paper No. W-42; wherein he opined that the alleged signatures on the resignation letter, paper No. 33/1 is not that of workman, Swadesh Kumar Srivastava. The authorized representative of the management cross-examined the Hand Writing Expert, Sri Anurag Srivastava over his report. In cross-examination the Hand Writing Expert confirmed his report. The management did not prefer to produce its Hand Writing Expert in rebuttal, resultantly the report of the Hand Writing Expert, Sri Anurag Srivastava that the signatures appear on the alleged resignation is not that of workman becomes unrebutted and acceptable.

28. When it has been established that the alleged resignation letter, paper No. 33/1 has not been signed by the workman, then the pleading taken by the management that the workman himself resigned stands unproved. Therefore, in view of the facts and circumstances of the case and discussions made hereinabove, I am of the considered opinion that the applicant is a 'workman' of the M/s Reliance Communication Ltd.; and the action of management in not allowing him to join his duties w.e.f. 12.07.2008 is illegal and unjustified; and accordingly, I come to the conclusion that the workman be allowed to join his duties and be paid salary for intervening period with consequential benefits i.e. continuity in services and seniority etc., within 08 weeks of publication of the award, failing which; the back wages shall carry simple interest @ 6% per annum.

29. Award as above.

LUCKNOW.

RAKESH KUMAR, Presiding Officer

31st May, 2016.

नई दिल्ली, 15 जून, 2016

का.आ.1238.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट (संदर्भ संख्या 09C/2014/2 का 2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/06/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 15th June, 2016

S.O.1238.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No.09C of 2014/02 of 2011) of the Industrial Tribunal Patna now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd. and their workman, which was received by the Central Government on 13/06/2016.

[No. L-42025/03/2016-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

I.D. Case No. : 09(C) of 2014

02 of 2011

Between The management of (1) The Chief Manager, Bharat Sanchar Nigam Ltd. Meghdoot Building, G.P.O Complex, Patna-800001 (2) Pradhan Mahaprabandhak, Bharat Sanchar Nigam Ltd. Telephone Bhawan, R' Block, Patna-800001 and Their workman Sri Krishna Kumar Singh, S/O- Sri Indrajit Singh, Vill.- Nijampur, P.S- Dulhin Bazar, Dist.- Patna.

For the management: Sri Devendra Sharma, SDEP, Bikram (Management representative).
Sri Sunil Kumar, SDEP, Bikram (Management representative).

For the workman : Sri B. Prasad, Joint Convener, of Coordination Committee of Trade Unions and Associations, Bihar.

Present : Bipin Dutta Pathak Presiding Officer, Industrial Tribunal, Patna.

AWARD

Patna, dated: 3rd June, 2016.

1. Workmen has been filed case u/s- 2A (1) & (2) of the Industrial Dispute (Amendment) Act, 2010 for seeking relief against wrongful termination from the service of B.S.N.L while working as a full time class IV employee under group 'D' and denial of regularization of his service.

Question for determination is:-

“ Whether the action of the management of Bharat Sanchar Nigam Ltd in terminating the services of Sri Krishna Kumar Singh, a Lineman (Peon) under Group ‘D’, Telephone Exchange, Dulhin Bazar and not regularizing his services while regularizing the services of other Junior Co- Workmen, is legal and justified? If not, what relief (S) the workman is entitled to?”

2. This case has been filed before the Cent. Govt. Indus. tribunal-cum-Labour Court No.-2, Dhanbad and Cent. Govt. Industrial -cum-Labour Court No.-2, Dhanbad has sent the record of I.D Case No.- 02 of 2011 through its letter No.- LCT 1/2014/ dated-18th November, 2004 to State Industrial Tribunal, Patna for adjudication.

3. The statement of claim of the workman is that he had worked with the management Bharat Sanchar Nigam Limited at their telephone exchange, Dulhin Bazar, Patna from 01.01.1992 to 31.12.2008.

The management formulated schemes on different occasions for regularizing of the services of workman as full time class IV under group-D. Workman had represented to the management for his regularization but his case was not considered rather he was terminated from the services of the B.S.N.L w.e.f. 01.01.2009. Then he raised Industrial Dispute before conciliation officer but dispute could not resolved.

The case of workman is that he was orally appointed to discharge the duties of a lineman, peon under group ‘D’ at Telephone Exchange Dulhin Bazar, Main Office under SDO, Danapur Rural. He worked from 01.01.1992 and used to discharge the following duties of --- (a) Repair of Telephone Line, (b) Cable repair, (c) Charging of battery in Telephone Exchange, (d) Bringing diesel oil from Petrol Pump through thela on the basis of coupon supplied by the incharge of exchange and other sundry jobs of a class IV employee. He used to discharge the duties for eight hours daily and even for more time as per the instruction of his superiors. He was paid wages @ Rs. 2000/- Per months from 01.01.1992 to 31st December, 2000 and thereafter wages was reduced. He was paid wages @ 1000/- from 01.01.2001 to 31.12.2005 and @ Rs. 500/- P.M from Ist January, 2006 to 31.12.2008. Payment was made through ACG 17 Bill. After opening of sub divisional office at Bikram, the control of Dulhin Bazar Telephone Exchange was shifted from Danapur Rural to Bikram.

Bharat Sanchar Nigam Ltd. formulated schemes for regularization of the services of daily rated/temporary workers on different occasions and the workers were required to submit their application. This workmen submitted his application for regularization / permanent absorption in the services of the corporation. His name was forwarded to higher authorities by the SDO, Telephone, Danapur along with other applications. The workman worked for over 10 years continuously. The case of workman was not considered for regularization. The case of following workman who were either junior or contemporary to the workman were considered for regularization. Names of which has been mentioned.

Workman uninterruptedly works from 01.01.1992 to 31.12.2008. When he went to perform his duties on 01.01.2009 he was stopped and his service stood terminated. The workman represented to the management from working for his reinstatement but no positive step was taken by the management. Other ground has been mentioned. Relief has been claimed mainly for reinstatement with back wages and other relief.

4. Written statement has been filed on behalf of the management stating therein that case of the workman does not come under the purview of section-25 of the Industrial Dispute Act, 1947. Conciliation proceeding was conducted and the case was discussed. Management denied that petitioner was never appointed. The management of Bharat Sanchar Nigam Ltd, Patna verified the record of Dulhin Bazar Exchange as well as record of administration section of Principal General Manager Office, Patna and found that so called workman was never engaged by any office of BSNL, Patna or erstwhile Department of Telecom. Statement made by applicant of oral appointment in the year 1992 is totally false.

5. Rejoinder to the written statement of the management has been filed by the workman stating therein that workman has worked at Telephone Exchange, Dulhin Bazar, Patna from 01.01.1992 to 31.12.2008. He was terminated from the service w.e.f. 2009. Workman worked with the management for 17 years and has become over aged while working with the management. Management regularized the services of junior workmen as a class IV employee under group ‘D’ and discriminated with the workman while not considering his regularization although workman fulfilled all the criteria and was eligible for regularization.

6. It appears that single witness was examined on behalf of the workman who is W.W-1 Krishna Kumar Singh himself. This witness has stated that he was working in telephone exchange Dulhin Bazar, Patna as temporary mazdoor from 1992 to December 2008. He was installing connection and removing the fault. He also used to charge bettary from generator. He has done duty from 9.00P.M to 5.00P.M. Thereafter he was paid only Rs. 500/- P.M. When he was removed from service then he was getting Rs. 500/- P.M. He has proved Ext.-W series in support of his service. This witness further stated that in his duties anti-social element used to disturb and for this, he informed this matter to his officer and officers sent his complain to Dulhin Bazar, police station, this documents marked as Ext.-W/1. He has also Extd- W/2 in proof of running generator. Prior his removal no notice, nor compensation was paid. Service of other person working with him were regularized. His claim is correct.

7. Though management has appeared and filed only written statement. But the management did not contest the case and did not produce any witness and even management did not cross-examine the witness of the workman.

8. Ext.-W is the certificate granted by T.T.A Bikram, SDE(G) Bikram, BSNL, Patna and also signed by RM Telephone Exchange Dulhin Bazar this certificate is dated- 30.06.2009 stating therein that Krishna Kumar Singh is very poor labourer. His date of birth is 20.12.1971. He is working regularly on daily wages in telephone exchange Dulhin Bazar from 1st Jan. 1992 to 30th June 2009. His work is to connect cable and to remove defect of line, to check the line and to charge bettary. Since at Dulhin Bazar telephone exchange, there was no work of cable joining etc, so work is not taken from him. Krishna Kumar Singh is a good person and experienced labourer. Ext.-W/1 to Ext.-W/1-16 are different certificate. Ext.-W1-1 is about working of Krishna Kumar Singh from 01.01.1992 to 30.06.2009. Ext.-W/1-2, W/1-3 of the certificate of work record of Krishna Kumar Singh. Ext.- W/1-4 demonstrate that from January, 1992 to December 1993 Krishna Kumar Singh is worked for 708 days and from January 1994 to December 1995 he worked for 728 days. Ext.-W/1-5 demonstrate that he worked from January 1996 to December 1997 for 709 days and similarly certificate has been demonstrated for the working of Krishna Kumar Singh till Decemebr 2008. All the certificates were granted by the departmental authority. Ext.- W/1 is the letter sent to senior S.P, Patna by SDE (group) BSNL Bikram stated therein that Umesh Prasad and Krishna Kumar Singh are honest workman and they have been falsely indicated there are working since 5-10 years in Dulhin Bazar Telephone Exchange. Ext.-W/2 series are the statement of power supply.

Since the documents Extd by workman Krishna Kumar Singh are the documents of the department. It can not be denied and they are reliable documents. Apart from that workman Krishna Kumar Singh has completely supported his case in his evidence.

It is very regrettfull that he regularly work for 17 years as daily wager and his services were not regularized. This is the discrimination of department which should not have been done. From the certificate graned by the officer it appears that till 30.06.2009 Krishna Kumar Singh worked in the department. Work was not taken from him though his service were satisfactory. In this circumstances it is found that service of Sri Krishna Kumar Singh is required to be regularized by reinstating him from July 2009 to uptill now.

AWARD

9. It is hold that the action of the management of Bharat Sanchar Nigam Limited in terminating the services of Sri Krishna Kumar Singh, a lineman (under group 'D' Telephone Exchange), Dulhin Bazar and not regularising his service. While regularization of service of other junior co worker was not legal and justified. The workman is entitled to be regularized with immediate effect after reinstating him w.e.f 1st July, 2009 with half back wages.

This is my award accordingly.

Dictated & Corrected by me.

BIPIN DUTTA PATHAK, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1239.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 दिल्ली के पंचाट (संदर्भ संख्या 33/12) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/06/2016 को प्राप्त हुआ था।

[सं. एल-40012/76/2011-आईआर (डीयू)
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O. 1239.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No.33/12) of the Central Government Industrial Tribunal-Cum-Labour Court-II, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd. and their workman, which was received by the Central Government on 14/06/2016.

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT - II, ROOM NO.33,
BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX,
KARKARDOOMA, DELHI 110 032**

Present: Shri Harbansh Kumar Saxena

ID. No. 33/12

Sh. Kailash Pal, S/o Sh. Deema Pal,
Rahul Colony, NIT,
Faridabad.

...Workman

Versus

The General Manager,
Bharat Sanchar Nigam Limited,
Sector-15,
Faridabad.

...Management

AWARD

The Central Government in the Ministry of Labour vide Letter No.L-40012/76/2011(IR(DU) dated 05.12.2011 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of BSNL , Faridabad in terminating the service of Sh. Kailash Pal S/o Sh. Dheema Pal, Ex-cable jointer, w.e.f 23.08.2010 is legal and justified? What relief the workman is entitled to?

On 20.01.2012 reference was received in this Tribunal. Which was register as I.D No. 33/2012 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Notices to parties issued for 16.3.2012.

On 29.08.2012 claim statement was filed by workman. Through which he prayed as follows:-

“to direct the management to reinstate the services of workman with continuity of service, full back wages alongwith consequential relief etc.

Against claim statement management filed its written statement on 13.03.2013. Wherein management denied the contents of claim statement and prayed for dismissal of claim statement.

On 22.05.2013 my Ld. Predecessor Dr. R.K. Yadav framed following issues:-

- 1.Whether there existed relationship of employer and employee between the parties.
- 2.As in terms of reference.

Fixed 30.07.2013 for evidence. Claimant to conclude first. But workman filed his affidavit in his evidence. On 9.10.2013 and fixed 20.11.2013 for tendering of affidavit and cross-examination of workman.

Workman has not turn up on 20.11.2013 , 22.1.2014 ,12.03.2014 , 21.05.2014,6.08.2014 , 1.10.2014, 10.012.2014, 11.02.2015 , 15.04.2015 , 17.06.2015 , 26.08.2015 and 28.10.2015 as last opportunity.

On 28.10.2015 when workman has not turn up his right of evidence has been closed and 30.12.2015 was fixed for management evidence.

Management filed affidavit of MW1 Sh.A.K. Verma who tendered it on 9.3.2016 his cross-examination was marked nil and fixed 4.05.2016 for argument.

On 4.05.2016 only Ld. A/R for the management appeared .I heard his arguments and reserved the award upto now none turn up on behalf of workman to argue.

I perused the pleadings of parties and unrebutted evidence of MW1 A.K. Verma . Which comes in the category of reliable and credible evidence. On the basis of which reference is liable to be decided in favour management and against workman. Which is accordingly decided. Claim statement is dismissed.

Award is accordingly passed.

Dated:-30.05.2016

HARBANSHP KUMAR SAXENA, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1240.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 39/12) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/06/2016 को प्राप्त हुआ था।

[सं. एल-40012/82/2011-आईआर (डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O.1240.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No.39/12) of the Central Government Industrial Tribunal-Cum-Labour Court-II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd. and their workman, which was received by the Central Government on 14/06/2016.

[No.L-40012/82/2011-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, ROOM NO.33,
BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX,
KARKARDOOMA, DELHI 110 032**

Present: Shri Harbansh Kumar Saxena

ID. No. 39/12

Sh. Raghu Raj, S/o sh. Panny Lal,
Parwati Colony, NIT,
Faridabad.

...Workman

Versus

The General Manager,
Bharat Sanchar Nigam Limited,
Sector-15,
Faridabad.

...Management

AWARD

The Central Government in the Ministry of Labour vide Letter No.L-40012/82/2011(IRD) dated 25.01.2012 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of BSNL , in terminating the services of Sh. Raghu Raj S/o Panna Lal, Ex-cable jointer, w.e.f 23.08.2010 is legal and justified? What relief the workman is entitled to?

On 20.01.2012 reference was received in this Tribunal. Which was register as I.D No. 39/2012 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Notices to parties issued for 16.3.2012.

On 29.08.2012 claim statement was filed by workman. Through which he prayed as follows:-

“to direct the management to reinstate the services of workman with continuity of service, full back wages alongwith consequential relief etc.

Against claim statement management filed its written statement on 13.03.2013. Wherein management denied the contents of claim statement and prayed for dismissal of claim statement.

On 22.05.2013 my Ld. Predecessor Dr. R.K. Yadav framed following issues:-

1.Whether there existed relationship of employer and employee between the parties.

2.As in terms of reference.

Fixed 30.07.2013 for evidence. Claimant to conclude first. But workman filed his affidavit in his evidence. On 9.10.2013 and fixed 20.11.2013 for tendering of affidavit and cross-examination of workman.

Workman has not turn up on 20.11.2013 , 22.1.2014 ,12.03.2014 , 21.05.2014,6.08.2014 , 1.10.2014, 10.012.2014, 11.02.2015 , 15.04.2015 , 17.06.2015 , 26.08.2015 and 28.10.2015 as last opportunity.

On 28.10.2015 when workman has not turn up his right of evidence has been closed and 30.12.2015 was fixed for management evidence.

Management filed affidavit of MW1 Sh.A.K. Verma who tendered it on 9.3.2016 his cross-examination was marked nil and fixed 4.05.2016 for argument.

On 4.05.2016 only Ld. A/R for the management appeared .I heard his arguments and reserved the award upto now none turn up on behalf of workman to argue.

I perused the pleadings of parties and unrebutted evidence of MW1 A.K. Verma . Which comes in the category of reliable and credible evidence. On the basis of which reference is liable to be decided in favour management and against workman. Which is accordingly decided. Claim statement is dismissed.

Award is accordingly passed.

Dated:-30.05.2016

HARBANSHE KUMAR SAXENA, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1241.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 62/12) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/06/2016 को प्राप्त हुआ था।

[सं. एल-40012/38/2011-आईआर (डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O. 1241.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I. D. No.62/12) of the Central Government Industrial Tribunal-Cum-Labour Court-II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd. and their workman, which was received by the Central Government on 14/06/2016.

[No. L-40012/38/2011-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT - II, ROOM NO.33,
BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX, KARKARDOOMA,
DELHI 110 032**

Present: Shri Harbansh Kumar Saxena

ID. No. 62/12

Sh. Sanjeev Kumar , S/o Sh. Ramtrinath,
Vill- Dayalpur, Ballabgarh,
Faridabad.

...Workman

Versus

The General Manager,
Bharat Sanchar Nigam Limited,
Faridabad.

...Management

AWARD

The Central Government in the Ministry of Labour vide Letter No.L-40012/38/2011(IR(DU) dated 25.01.2012 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of BSNL , Faridabad in terminating the service of Sh. Sanjeev Kumar S/o Ramtirath, Ex-cable jointer, w.e.f 23.08.2010 is legal and justified? What relief the workman is entitled to?

On 14.02.2012 reference was received in this Tribunal. Which was register as ID No. 62/2012 and claimant union was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Notices to parties issued for 16.3.2012.

On 29.08.2012 claim statement was filed by workman. Through which he prayed as follows:-

“to direct the management to reinstate the services of workman with continuity of service, full back wages alongwith consequential relief etc.

Against claim statement management filed its written statement on 13.03.2013. Wherein management denied the contents of claim statement and prayed for dismissal of claim statement.

On 22.05.2013 my Ld. Predecessor Dr. R.K. Yadav framed following issues:-

1.Whether there existed relationship of employer and employee between the parties.

2.As in terms of reference.

Fixed 30.07.2013 for evidence. Claimant to conclude first. But workman filed his affidavit in his evidence. On 9.10.2013 and fixed 20.11.2013 for tendering of affidavit and cross-examination of workman.

Workman has not turned up on 20.11.2013 , 22.1.2014 ,12.03.2014 , 21.05.2014,6.08.2014 , 1.10.2014, 10.01.2014, 11.02.2015 , 15.04.2015 , 17.06.2015 , 26.08.2015 and 28.10.2015 as last opportunity.

On 28.10.2015 when workman has not turned up his right of evidence has been closed and 30.12.2015 was fixed for management evidence.

Management filed affidavit of MW1 Sh.A.K. Verma who tendered it on 9.3.2016 his cross-examination was marked nil and fixed 4.05.2016 for argument.

On 4.05.2016 only Ld. A/R for the management appeared .I heard his arguments and reserved the award upto now none turned up on behalf of workman to argue.

I perused the pleadings of parties and unrebutted evidence of MW1 A.K. Verma . Which comes in the category of reliable and credible evidence. On the basis of which reference is liable to be decided in favour of management and against workman. Which is accordingly decided. Claim statement is dismissed.

Award is accordingly passed.

Dated:-30.05.2016

HARBANSHE KUMAR SAXENA, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1242.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 66/12) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/06/2016 को प्राप्त हुआ था।

[सं. एल-40012/42/2011-आईआर (डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O. 1242.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I. D. No.66/12) of the Central Government Industrial Tribunal-Cum-Labour Court-II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd. and their workman, which was received by the Central Government on 14/06/2016.

[No. L-40012/42/2011-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT- II, ROOM No. 33,
BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX, KARKARDOOMA,
DELHI 110 032**

Present: Shri Harbansh Kumar Saxena

ID. No. 66/12

Sh. Rahul S/o Tej Ram,
R/o Deha Gaon,
Nahar Par,
Faridabad.

...Workman

Versus

The General Manager,
Bharat Sanchar Nigam Limited,
Sector-15
Faridabad.

...Management

AWARD

The Central Government in the Ministry of Labour vide Letter No.L-40012/42/2011-(IR(DU) dated 25.01.2012 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of BSNL, Faridabad in terminating the service of Sh. Rahul S/o of Sh. Tej Ram, Ex-cable jointer, w.e.f 23.08.2010 is legal and justified? What relief the workman is entitled to?”

On 14.02.2012 reference was received in this Tribunal. Which was register as I.D No. 66/2012 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Notices to parties issued for 4.4.2012.

On 20.07.2012 claim statement was filed by workman. Through which he prayed as follows:-

“to direct the management to reinstate the services of workman with continuity of service, full back wages alongwith consequential relief etc.

Against claim statement management filed its written statement on 1.05.2013. Wherein management denied the contents of claim statement and prayed for dismissal of claim statement.

On 1.5.2013 My Ld. Predecessor has not framed any issue but proceeded to decide this Industrial Dispute on the basis of questions of determination mentioned in the schedule of reference and fixed 26.06.2013 for evidence of parties. Claimant to conclude first.

But workman on 9.10.2013 filed affidavit of workman and fixed 27.11.2013 for tendering affidavit and cross-examination of workman.

But workman not turn up on 27.11.2013, 29.01.2014, 31.3.2014, 4.6.2014, 6.08.2014, 1.10.2014, 10.12.2014, 11.02.2015, 15.04.2015, 26.08.2015, 28.10.2015 hence this Tribunal has closed the right adducing evidence by workman on 28.10.2015 and fixed 30.12.2015 for management evidence.

On 9.03.2016 management filed affidavit of MW1 Sh. A.K. Verma, who tendered his affidavit. His cross-examination was marked nil and fixed 4.5.2016 for arguments.

On 4.5.2016 only Ld. A/R for management argued and Award was Reserved. I perused the pleadings of parties and unrebutted evidence of MW1 A.K. Verma. Which comes in the category of reliable and credible evidence. On the basis of which reference is liable to be decided in favour management and against workman. Which is accordingly decided. Claim statement is dismissed.

Award is accordingly passed.

Dated:-30.05.2016

HARBANSHP KUMAR SAXENA, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1243.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पचाट (संदर्भ संख्या 68/12) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/06/2016 को प्राप्त हुआ था।

[सं. एल-40012/44/2011-आईआर (डीयू)]
पी. के. वेनुगोपाल, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O. 1243.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I. D. No.68/12) of the Central Government Industrial Tribunal-Cum-Labour Court-II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd. and their workman, which was received by the Central Government on 14/06/2016.

[No. L-40012/44/2011-IR(DU)]
P. K. VENUGOPAL, Desk Office

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT - II, ROOM No. 33,
BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX, KARKARDOOMA,
DELHI 110 032**

Present: Shri Harbansh Kumar Saxena

ID. No. 68/12

Sh. Mahinder Kumar S/o Sh. Ram Ajor,
R/o Rahul Colony, Gali No. 2,
NIT, Faridabad.

...Workman

Versus

The General Manager,
Bharat Sanchar Nigam Limited,
Sector-15
Faridabad.

...Management

AWARD

The Central Government in the Ministry of Labour vide Letter No.L-40012/44/2011(IR(DU) dated 25.01.2012 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of BSNL , Faridabad in terminating the service of Sh.Mahinder Kumar S/o Sh. Ram Ajor , Ex-cable jointer, w.e.f 23.08.2010 is legal and justified? What relief the workman is entitled to?”

On 14.02.2012 reference was received in this Tribunal. Which was register as I.D No. 68/2012 and claimant union was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Notices to parties issued for 4.4.2012.

On 20.07.2012 claim statement was filed by workman. Through which he prayed as follows:-

“to direct the management to reinstate the services of workman with continuity of service, full back wages alongwith consequential relief etc.

Against claim statement management filed its written statement on 1.05.2013. Wherein management denied the contents of claim statement and prayed for dismissal of claim statement.

On 1.5.2013 My Ld. Predecessor has not framed any issue but proceeded to decide this Industrial Dispute on the basis of questions of determination mentioned in the schedule of reference and fixed 26.06.2013 for evidence of parties. Claimant to conclude first.

But workman on 9.10.2013 filed affidavit of workman and fixed 27.11.2013 for tendering affidavit and cross-examination of workman.

But workman not turn up on 27.11.2013, 29.01.2014 , 31.3.2014 , 4.6.2014, 6.08.2014, 1.10.2014, 10.12.2014 , 11.02.2015, 15.04.2015, 26.08.2015, 28.10.2015 hence this Tribunal has closed the right adducing evidence by workman on 28.10.2015 and fixed 30.12.2015 for management evidence.

On 9.03.2016 management filed affidavit of MW1 Sh. A.K. Verma, who tendered his affidavit. His cross-examination was marked nil and fixed 4.5.2016 for arguments.

On 4.5.2016 only Ld. A/R for management argued and Award was Reserved.

I perused the pleadings of parties and unrebutted evidence of MW1 A.K. Verma . Which comes in the category of reliable and credible evidence. On the basis of which reference is liable to be decided in favour management and against workman. Which is accordingly decided. Claim statement is dismissed.

Award is accordingly passed.

Dated:-30.05.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1244.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 70/12) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/06/2016 को प्राप्त हुआ था।

[सं. एल-40012/47/2011-आईआर (डीयू)
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O. 1244.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I. D. No.70/12) of the Central Government Industrial Tribunal-Cum-Labour Court-II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Ltd. and their workman, which was received by the Central Government on 14/06/2016.

[No. L-40012/47/2011-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT - II, ROOM No. 33,
BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX, KARKARDOOMA,
DELHI 110 032**

Present: Shri Harbansh Kumar Saxena

ID. No. 70/12

Sh. Ram Prakash, S/o Sh. Shitla Prasad,
H.No.304, Rahul Colony, Gali No. 2,
NIT, Faridabad.

...Workman.

Versus

The General Manager,
Bharat Sanchar Nigam Limited,
Sector-15,
Faridabad.

...Management.

AWARD

The Central Government in the Ministry of Labour vide Letter No.L-40012/47/2011-(IR (DU) dated 30.01.2012 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of BSNL , Faridabad in terminating the services of Sh. Ram Prakash S/o Sh. Shitla Prasad, Ex-Cable Jointer w.e.f 23.08.2010 is legal and justified? What relief the workman is entitled to ?”

On 14.02.2012 reference was received in this Tribunal. Which was registered as I.D No. 70/2012 and claimant union was called upon to file claim statement within fifteen days from date of service of notice which was required to be accompanied with relevant documents and list of witnesses.

Notices to parties issued for 4.4.2012.

On 20.07.2012 claim statement was filed by workman. Through which he prayed as follows:-

“to direct the management to reinstate the services of workman with continuity of service, full back wages along with consequential relief etc.

Against claim statement management filed its written statement on 1.05.2013. Wherein management denied the contents of claim statement and prayed for dismissal of claim statement.

On 1.5.2013 My Ld. Predecessor has not framed any issue but proceeded to decide this Industrial Dispute on the basis of questions of determination mentioned in the schedule of reference and fixed 26.06.2013 for evidence of parties. Claimant to conclude first.

But workman on 9.10.2013 filed affidavit of workman and fixed 27.11.2013 for tendering affidavit and cross-examination of workman.

But workman not turn up on 27.11.2013, 29.01.2014, 31.3.2014, 4.6.2014, 6.08.2014, 1.10.2014, 10.12.2014, 11.02.2015, 15.04.2015, 26.08.2015, 28.10.2015 hence this Tribunal has closed the right adducing evidence by workman on 28.10.2015 and fixed 30.12.2015 for management evidence.

On 9.03.2016 management filed affidavit of MW1 Sh. A.K. Verma, who tendered his affidavit. His cross-examination was marked nil and fixed 4.5.2016 for arguments.

On 4.5.2016 only Ld. A/R for management argued and Award was Reserved.

I perused the pleadings of parties and unrebutted evidence of MW1 A.K. Verma which comes in the category of reliable and credible evidence. On the basis of which reference is liable to be decided in favour of management and against workman. Which is accordingly decided. Claim statement is dismissed.

Award is accordingly passed.

Dated:30.05.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1245.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक अॅफ बडोदा के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1448/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/06/2016 को प्राप्त हुआ था।

[सं. एल-12011/7/2014-आईआर (बी- II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O.1245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.1448/2004) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the the management of the Bank of Baroda and their workman received by the Central Government on 16-06-2016.

[No. L-12011/7/2004-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 16th March, 2016

Reference: (CGITA) No. 1448/2004

1. The Regional Manager,
Bank of Baroda,
2nd Floor,
M.G. Road,
Near GPO,
Rajkot- 360002
...First Party

Vs.

Their Workman,
Through the Assistant Secretary,
Gujarat Bank Workers Union,
Rambar, 8, Jagnath Plot,
Post Box No. 10,
Rajkot-360001
...Second Party

For the First Party : Shri V.K. Mashar, Advocate
For the Second Party : Shri P.S. Vasavda, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/7/2004-IR(B-II) dated 01.06.2004 referred the dispute for adjudication to the Industrial Tribunal, Rajkot (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether it is a fact that Shri S.T. Dabhi was engaged by the management of Bank of Baroda as a Driver during the period from the year 1995 to March 2003? Whether the action of the management of Bank of

Baroda, Rajkot in terminating the services of Sh. S.T. Dabhi w.e.f. 25/3/2003 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. This reference dates back to 01.06.2004. Second party submitted vakalatnama (Ext.4) and statement of claim (Ext.5) on 27.01.2005. First party submitted written statement (Ext.6) on 09.12.2009. But since then second party has not led evidence despite giving dozen of opportunities. Thus, it appears that second party is not willing to proceed with the reference as they have been absent since last several dates. Thus Tribunal has no option but to dismiss the reference in default of the second party.

This reference is dismissed in default of the second party.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ. 1246.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 420/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/147/2001-आईआर (बी- II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O. 1246.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 420/2004) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of the Bank of India and their workman received by the Central Government on 16/06/2016.

[No. L-12011/147/2001-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad, dated 3rd December, 2015

Reference: (CGITA) No. 420/2004

Reference: (I.T.C) No. 85/2001(old)

The Regional Manager,
Bank of India,
Zonal Office, Bhadra,
Ahmedabad (GUJARAT)-380001

...First Party

And

Their Workman
Shri Jayant Jashubhai Acharya
Through The General Secretary,
Bank of India Staff Union, C/o. Bank of India,
Ahmedabad and Gujarat Branches,,
Bhadra, Ahmedabad-380001

...Second Party

For the First Party : Ms. Meenaben Shah, Advocate

For the Second Party : The General Secretary, Bank of India Staff Union

AWARD

The Government of India/Ministry of Labour, New Delhi vide its order No. L-12011/147/2001-IR(B-II) dated 10.10.2001, referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad in respect to the matters specified in the Schedule:

SCHEDULE

“Whether the action of the management of Bank of India in terminating the services of Shri J.J. Acharya by way of ‘Compulsory Retirement from Service’ vide order dated 04.07.2000 is legal, proper and justified? If not, what relief the concerned workman is entitled to and what other direction are necessary in the matter?”

2. On behalf of the second party, Sh. Jayant Jashubhai Achraya, through the Bank of India Staff Union, Ahmedabad filed the Statement of claim (Ext.3) alleging the action taken by the first party illegal and improper and without basis.

3. In reply to the Statement of Claim (Ext.3) filed by the second party, the first party (Bank of India) filed the written statement (Ext.6) in detail alleging that the facts narrated in the Statement of claim are wrong and against the facts and cannot be accepted on the face of record.

4. Both the parties did not lead any evidence. On 02.12.2015 Sh. Jayant Jashubhai Achraya, workman filed an authority letter (Ext.12) wherein Sh. Jayant Jashubhai Achraya, second party workman appointed Sh. Girishkumar Pramodray Dave, General Secretary, Bank of India Staff Union, in the reference, to act and appear on his behalf to conduct and prosecute or defend or withdraw the same and all the proceedings that may be taken in respect of application connected with the same to file and obtain documents in the above reference and to represent him to take all necessary steps on his behalf in the above matter.

5. Sh. Jayant Jashubhai Achraya further agreed to ratify all acts done by Sh. Girishkumar Pramodray Dave in pursuance of the authority.

6. Consequent to the above authority letter (Ext.12) aforesaid Sh. Girishkumar Pramodray Dave filed the application (Ext.13) of Sh. Jayant Jashubhai Achraya for withdrawing the present reference.

7. The said withdrawal application (Ext.13) has not been opposed by the first party. Thus, in the light of the aforesaid application (Ext.13) the reference is permitted to be withdrawn. No order regarding case is required.

Order passed accordingly.

PRAMOD KUMAR CHATURVEDI, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1247.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 58/2004) आईटीसी 3/1998 को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/226/97-आईआर (बी- II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O.1247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.58/2004) ITC 3/1998 of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of the Bank of Maharashtra and their workman received by the Central Government on 16/06/2016.

[No. L-12012/226/97-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 10th February, 2016

Reference: (CGITA) No. 58/2004Reference : (ITC) No. 3/1998

The Manager,
Bank of Maharashtra,
Relief Road,
Ahmedabad-380001

...First Party

Vs.

Their Workman
Sh. A.H. Ismail,
C/o. Y. S. Pathan,
Opp. Khanpur Gate,
Behind Usha Kiran Flats, Khanpur,
Ahmedabad-380001

...Second Party

For the First Party : Sh. C.S. Naidu, Advocate
For the Second Party : Sh. Y.S. Pathan, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/226/97-IR(B-II) dated 13.01.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Bank of Maharashtra, RO, Ahmedabad in terminating the services of Sh. A. H. Ismail, Sub-staff (Daftari), Relief Rd. Br. Ahmedabad vide order dt 19-1-96 is legal and justified? If not, to what relief the said workman is entitled?”

2. The second party Shri A.H. Ismail submitted in his statement of claim (Ext.4) wherein he stated that he had been working as Sub-staff (Daftari) relief road branch of Bank of Maharashtra since last 22 years. The officers of the aforesaid branch of the first party, Bank of Maharashtra were satisfied with his work and conduct during his whole service. He was not served with any notice or memo during his service. He was under a duty to keep all the passbooks, registers and other items of stationery including stamp etc. He further stated in the statement of claim that during the tenure of his 22 years' service he never committed any act which amount to forgery and dishonesty in other word he discharges his duties faithfully and diligently. He had further stated that in spite of that the management has served him charge sheet dated 27.10.94 and conducted the departmental inquiry against him for the charges levelled in the said charge sheet. The inquiry was conducted unjust, unfair and also against the principles of natural justice. His services were terminated vide order dated 10.01.1996 after holding inquiry which was too harsh, illegal and improper. He has further stated that his wife also lodged a criminal complaint before the Metropolitan Magistrate for grant of maintenance with a motive to harm him and to lose service. He has further stated that his mother in law cheated him by taking away 50,000/- despite the same she lodged a police complaint against him to pressurise the bank manager through various political persons for termination of his service from the bank. He further stated in his statement of claim for helping his friends he took a loan from the bank but he could not be able to pay the loan instalments regularly as his wife also filed a case for maintenance. Secondly, his mother in law also filed a false police complaint against him in various police stations. Due to these reasons, he had to spent huge amount consequently, he became mentally depressed. He has further stated that he received number of notices but no court imposed any penalty or punishment. No court also declared him insolvent (Nadar). He further stated in statement of claim that bank also charge sheeted him

regarding bounce of cheque on account of insufficient balance. He further stated that the truth is that he paid the amount to one Mr. Pandya who has made the affidavit to the effect that the payment is already received by him. The second party further stated that the first party bank also charged him for having an account No. 3120 in the first party bank operated by cheque. After using all the cheques, he requested the officer to issue two fresh cheque books and he put two cheque books in his drawer. He had not taken the said cheque book at his home, the said cheque books were kept in his drawer in bank by some other person for which he was unaware. He has further stated that on the second day he was on leave on that day, the bank has found the said cheque books and imposed illegal charge that he had taken two cheque books unauthorisedly. He had further stated that he had not used the said cheque books. Though the first party bank has manipulated with an intention to harass him through his wife and mother in law got false criminal complaints lodged. Further in the statement of claim he stated that as stated herein above being a sub-staff (Daftari) and a part of his duties he had too given the pass books, cheque books to the customer said things were kept in possession of sub-staff (Daftari) along with various seal and documents, stationery and other secured items were lying in his possession. Sometime other clerk were on leave he had discharge duties in their place. He has further stated that during 22 years' service, he had never done any wrong. He has further stated that due to his mental condition he had to take leave very often. He has further stated that during the service tenure with the bank he had never committed any dishonesty, cheating etc. He has further stated in statement of claim that he also assured the bank management in future he will discharge his duties faithfully and diligently. In the statement of claim he has prayed to declare the termination order dated 19.01.96 was illegal, improper and direct the bank management to reinstate him to his original post i.e. sub-staff (daftari) with full back wages and further prayed to impose cost of this litigation.

3. The first party has filed its written statement vide Ext.12 wherein they have denied the averment and contentions made by the second party in his statement of claims and in paragraph 12, management has stated true facts wherein management state that the first party bank is nationalised bank and having its branches in all over India. The second party was working with the first party at Relief Road Branch as sub-staff (Daftari) at the relevant time. He was served with the charge sheet dated 27.10.94 for the misconduct committed by the second party the main charge is the second party has taken the loan from the other bank without the prior permission of the bank, the other charges he kept the two cheque book unauthorisedly with him and third charge is the second party issued a cheque to Mr. Pandya which was returned due to insufficient balance. The bank has stated that the above misconduct is violative of by party settlement. Bank has further stated that second party reply was not satisfactorily. Bank decided to hold the departmental inquiry against the second party workman and accordingly one D.R. Turakhiya was appointed as inquiry officer and one G.B. Raval was appointed as presenting officer. The bank has further stated that though second party was allowed to keep his defence representative in spite of that second party participated in the inquiry in person. Bank has further stated that in the inquiry second party was afforded fullest opportunity to defend himself, he was allowed to cross-examine the witnesses and after the following the principles of natural justice. Thereafter, the disciplinary authority allowed the second party for personal hearing. Thereafter, the disciplinary authority passed the punishment order and consequently, the services of the second party were terminated. The management has further stated that the action of the management in terminating the service of second party is legal, proper and hence, the second party is not entitled to get any relief as prayed for and requested to reject the reference. The bank has further stated that if Hon'ble Court comes to the conclusion that the departmental inquiry held against second party is defective in that case the management is allowed to establish the charges before this Hon'ble Court by producing evidence to that effect.

4. After the perusal of the pleadings of the second party, following issues arise:

- (I) Whether the second party committed service misconduct by taking a personal loan from another bank, issuing a cheque to third party knowing the fact that he has insufficient amount in his account and also unauthorisedly keeping two cheque books without permission of the bank manager?
- (II) Whether the second party was not given proper opportunity of hearing in the departmental inquiry?
- (III) Whether the second party was given punishment without hearing?
- (IV) Whether the punishment awarded is excessive?

5. Second party A.H. Ismail in his statement (Ext.17) on oath stated that he had been working as Peon in the Bank of Maharashtra, Relief Road branch since 10.09.1974. He never received any memo for his work and conduct. His last monthly emoluments were Rs. 4500/- He used to manage private documents, refund deposited, pay orders etc., and also keeping keys in the cupboard by taking from a bank official. He used to work all the duties of a clerk in case of absence of any clerical staff of the branch. He was served with the charge sheet on 27.10.1994 under extraneous pressure wherein the first charge was that he could not be able to pay the loan instalments of different banks regularly. He took loan from bank for his brother in law. For the second charge, he stated that the son of Shri Pandya, deposited the cheque by mistake. He also stated about the third charge that two cheque books were taken by him from his branch without the permission of the branch manager which was wrong. He has an account in the bank since joining of his service and had a passbook and cheque book of the said account. He also obtained new cheque books after finishing of old one. Any notice or memo was not given to him. Departmental inquiry held against him and he had not called any

union for his side because he thought that the crime which was done is minor. And after the termination from service on 19.01.1996, he tried to work elsewhere but failed. He has also stated that he has been unemployed since 19.01.1996. He is blessed with three sons and wife having no means of livelihood. But he has not challenged the veracity and findings of the inquiry report. He has filed the inquiry report.

6. **ISSUE NO. I :-** Whether the second party committed service misconduct by taking a personal loan from another bank, issuing a cheque to third party knowing the fact that he has insufficient amount in his account and also unauthorisedly keeping two cheque books without permission of the bank manager?- second party workman got himself examined and admitted that he participated in the departmental inquiry and did not dispute the charges levelled against him. Thus, the issue is decided him in affirmative.

7. **ISSUE NO. II:-** Whether the second party was not given proper opportunity of hearing in the departmental inquiry?- First party workman has not stated anything contrary in his statement leading to a conclusion that he was not given opportunity of proper hearing. Thus, this issue is decided in negative.

8. **ISSUE NO. III :-** Whether the second party was given punishment without hearing?- Again second party workman has not stated anything contrary in his examination. Therefore, the issue is decided him in negative.

9. **ISSUE NO. IV:-** Whether the punishment awarded is excessive?- All the aforesaid charges stated in the Issue No. I, II and III are serious in nature. Second party workman was the custodian trustee of the cheque books of the bank and taken out the two bunch/set of cheque books for self-use without the permission of the branch manager make it a case of loss of confidence or trust in the employee(workman) and also make it a case of major punishment. Trustee who is in custody of blank and unused copies of Refund Voucher, Pay order and cheque book has serious responsibility to keep them in safe custody. In case, he himself take them out of his own custody without permission of Branch Manager definitely, make it a case of serious misconduct. Thus, the punishment awarded is adequate, just and fair and workman has no reason to express his anguish against the punishment awarded.

10. The reference has no force and fit to be dismissed.

Order is passed accordingly.

This is the award of Tribunal.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1248.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1418/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/29/2004-आईआर (बी- II)]
रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th June, 2016

S.O. 1248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.1418/2004) of the Central Government Industrial Tribunal-Cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Dena Bank and their workman received by the Central Government on 16/06/2016.

[No.L-12012/29/2004-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 8th February, 2016

Reference: (CGITA) No-1418/2004

The Regional Manager,
 Dena Bank,
 Dena Laxmi Building,
 1st Floor, 188A, Ashram Road,
 Ahmedabad (GUJARAT)-380014

...First Party

Vs.

Their Workman
 Sh. Pramod K. Parmar
 1876/3, Keshbaluni Chali,
 Opp. Nagri Mill,
 Rajpur, Gomtipur,
 Ahmedabad (Gujarat)

...Second Party

For the First Party : Sh. C.S. Naidu, Advocate
 For the Second Party : Sh. J.F. Shaikh, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 12012/29/2004-IR(B-II) dated 31.05.2004 referred the dispute for adjudication to the Central Government Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Regional Manager, Dena Bank, Ahmedabad in retrenching Shri Pramod K. Parmar, Badlee Sepoy without following provisions of Section 25-F of the ID Act, 1947 is justified and legal? If not, what relief the workman is entitled to?”

2. The second party Pramodbhai K. Parmar submitted his statement of claim wherein he stated that he (second party) had joined as Badlee Sepoy (Peon) in the management of Dena Bank in the year 1989 and worked diligently and honestly till 13.01.1996. He had been working full time i.e. from 10 O'clock in the morning to 6 O'clock in the evening and he was ordinarily paid Rs. 80/- per day of each month. Second party worked regularly for 243 and 289 days in the year 1994 and 1995 respectively meaning thereby he worked for more than 240 days in the aforesaid years. He was not issued any memo or show-cause notice by the first party regarding any misconduct. His work was utmost satisfaction to the first party and no inquiry was instituted against him. His service record was clean and thus, it is illegal and unjust to remove him from the service by the first party. He was removed from service without giving any notice or holding legal inquiry and without giving opportunity of hearing. Further, he stated that no written notice was issued to him prior to his termination from the service, as well as no legal benefits were paid to him. First party made a panel of 14 persons in the year 1994 for appointment as Badlee Sepoy. They were junior to him. Even today, they have been working and did not add the second party workman in the aforesaid panel. Further, his junior Shri R.R. Sen, who is working in Naroda Branch and whose name was not in the list of employment exchange was also appointed. Now they had been made permanent. Nine women were also appointed on contract basis. Women employees filed the case in the court and they made them part time regular employees and they all were his junior and their names also were not in the employment exchange and their panel was also not made. After terminating of his service, he wrote the letters to the first party again and again. In the year 2001, his case was entertained in National Commission for Schedule Caste and Schedule Tribes. After that in 2002 and 2003, he had made written presentation to the first party. However, first party had not appointed him till today. Thus, the action of termination from service of the second party is illegal and unjust. He complained in the office of the Central Labour Commissioner for retrenchment in which first party were present with written submission but did not ready to appoint him. Second party was removed illegally and the settlement was not made between them, thus, this reference was sent to the Tribunal for adjudication. After termination as Badlee Sepoy he tried to work elsewhere but failed to get work and he is still unemployed. He has prayed to quash his termination from the service and reinstatement with full back wages along with cost of Rs. 5000/- by the first party.

3. In reply to the statement of claim the first party Dena Bank stated in his written statement (Ext.14) denying all the facts of the statement of claim of the second party, stated that the reference is misconceive, incompetent and bad in law. Therefore, desires to be dismissed. Reference is also barred by the principles of delay and latches and requires to be rejected by the Tribunal. Second party has no locus standi to raise the dispute. Second party does not fall within the definition of 2(S) of the Industrial Disputes Act, 1947. Therefore, the reference is void ab initio and without jurisdiction and also does not come within the jurisdiction of Tribunal.

4. First party further stated that it is false to say that the second party was employed since 1989 and had been working as Badlee Sepoy (peon) at Gomtipur Branch till 13.01.1996. It is also false to say he worked diligently and honestly. It is also false to say that second party had been working full time i.e. from 10 O'clock in the morning to 6 o'clock in the evening and was paid Rs. 80/- per day of every month. Second party was not appointed on the said post, therefore, there exists no employer- employee relationship between the parties. It is wrong to say that second party had worked for 243 and 289 days in the year 1994 and 1995.

5. First party further stated it is not admitted that second party was not issued any memo, show cause notice and his work was utmost satisfaction to the first party. It is also not admitted that he was removed from service without giving any notice or holding legal inquiry and without giving opportunity of hearing. It is also not true that the penal did not call for the names from the employment exchange and some personnel were made permanent in the year 1988. Second party never given assurance by the first party. The true facts are that second party never appointed in the services of the Bank and in support of his contention first party has referred number of decision of various High Courts and Supreme Court. Therefore, the reference is liable to be dismissed.

6. On the perusal of the pleadings of the both the parties following issues for decision arise:

- (i) Whether the second party was workman within the definition of section 2 of the Industrial Disputes Act?
- (ii) Whether the second party workman served the first party for more than 240 days?
- (iii) Whether the retrenchment of the second party workman was legal and justified?

7. Second party workman Pramodbhai Kanjibhai Parmar stated on oath that he had been working as peon in the Dena Bank Gomtipur Branch since 19.04.1989 till 13.01.1996. He was paid Rs. 80/- per day as salary. He worked 243 and 289 days in the Dena Bank in the year 1994 and 1995 respectively. He was not given any memo or notice at the time of termination of his employment. He was orally removed and no departmental enquiry was order against him. But some of the workmen who are junior to him are still working in the Bank. After termination of his service, he tried other job unsuccessfully. At the time of termination, no financial payments were made to him. On his cross examination, he did not state anything to his examination-in-chief.

8. On behalf of the first party, Nitin Chinubhai Brahmbhatt was examined. He stated that Bank is required to follow the recruitment procedure wherein the eligibility was that a candidate for the said post must be of 18 years age and not more than 26 years and 31 years for general and schedule caste candidates respectively. They must have also passed 7th standard for the general candidate and 6th standard for the schedule caste candidate. As the second party did not fulfil above eligibility therefore, he was not forwarded by the employment exchange, consequently, second party was not empaneled for the said post. He further stated that second party was not having any servant-master relationship with the first party. He was not employed on a regular post therefore, serving for 240 days in a year does not cast any obligation on the first party to appoint him as regular employee. Second party never terminated from the service. He was not issued any appointment letter. As second party was not having the required eligibility, therefore, no relief can be given. He further stated that Ministry of Labour and Employment, Government of India referred an industrial dispute between the first and second party vide order no. L-12012/29/2001-IT(B-I) dated 31.05.2004 to this Tribunal for adjudication with a reference as under:

“whether the action of the management of Regional Manager, Dena Bank, Ahmedabad in retrenching Shri Pramod K. Parmar Badlee Sepoy without following provisions of section 25-F of the I.D. Act. 1947 is justified and legal? If not, what relief the workman is entitled to?”

Same was allowed to withdraw by the then Presiding officer, CGIT-cum-Labour Court, Ahmedabad on 23.08.2005. The said witness in his cross examination has not denied the fact that the second party did not serve the first party Dena Bank for more than 240 days in the year 1994 and 1995. The witness for the first party has not filed the copies of the application of the second party along with the documents which were required to be submitted by him at time of appointment as Badlee Sepoy. In the said condition, adverse inference against the first party is to be drawn for the reasons, if the second party was not having the eligibility requirement of the said post then why was second party appointed as Badlee Sepoy and also as to why was he permitted to serve the first party for more than 240 days in the 1994 and 1995. Second, as regards the order of withdrawal of reference, I would like to reproduce the wordings of both the references.

The reference which is undergoing adjudication:-

Ministry's Letter No. 12012/29/2004-IR (B-II) dated 31-5-2004

“Whether the action of the management of Regional Manager, Dena Bank, Ahmedabad in retrenching Shri Pramod K. Parmar, Badlee Sepoy without following provisions of Section 25-F of the ID Act, 1947 is justified and legal? If not, what relief the workman is entitled to?”

The reference which was withdrawn by the second party:-

The Government of India has referred the Industrial Dispute between the above parties by order No. L-12012/29/2001-IR(B-1) dated 31-5-2004 to this Tribunal for adjudication the terms of reference is as under :

“whether the action of the management of Regional Manager, Dena Bank, Ahmedabad in retrenching Shri Pramod K. Parmar Badlee Sepoy without following provisions of section 25-F of the I.D. Act. 1947 is justified and legal? If not, what relief the workman is entitled to?”

If language of letters of both the references, withdrawn and pending are compared then we would find that the pending reference relates to year 2004 and the withdrawn reference related to the year 2001. Thus, it cannot be said that both the matters are same despite the fact that the dated or same because the copy of the award of the reference No. 1442/2002 is Xerox and is not certified by the Central Government Industrial-Tribunal-cum-Labour Court, Ahmedabad, Therefore, Xerox copy being not admissible as documentary evidence. Therefore, the withdrawal order will not set up be set up as a estoppel or res-judicata.

9. As the language of both the reference are different, therefore, the principle estoppel or res judicata will not apply.

10. The second party in his statement of claim and also in his testimony stated, “His work was utmost satisfaction to the first party and no inquiry was instituted against him. His service record was clean and thus, it is illegal and unjust to remove him from the service by the first party. He was removed from service without giving any notice or holding legal inquiry and without giving opportunity of hearing. Further, he stated that no written notice was issued to him prior to his termination from the service, as well as no legal benefits were paid to him. First party made a panel of 14 persons in the year 1994 for appointment as Badlee Sepoy. They were junior to him. Even today, they have been working and did not add the second party workman in the aforesaid panel. Further, his junior Shri R.R. Sen, who is working in Naroda Branch and whose name was not in the list of employment exchange was also appointed. Now they had been made permanent. Nine women were also appointed on contract basis. Women employees filed the case in the court and they made them part time regular employees and they all were his junior and their names also were not in the employment exchange and their panel was also not made. After terminating of his service, he wrote the letters to the first party again and again. In the year 2001, his case was entertained in National Commission for Schedule Caste and Schedule Tribes. After that in 2002 and 2003, he had made written presentation to the first party. However, first party had not appointed him till today. Thus, the action of termination from service of the second party is illegal and unjust. He complained in the office of the Central Labour Commissioner for retrenchment in which first party were present with written submission but did not ready to appoint him. Second party was removed illegally and the settlement was not made between them, thus, this reference was sent to the Tribunal for adjudication. After termination as Badlee Sepoy he tried to work elsewhere but failed to get work and he is still unemployed. He has prayed to quash his termination from the service and reinstatement with full back wages along with cost of Rs. 5000/- by the first party”. But the witness for the second party did not prefer to reply the aforesaid testimony of the workman.

11. Here, I would like to refer few judgements of the Gujarat High Court as well as Apex Court:

(a.) Gujarat High Court in GSRTC vs Fatesinh Chhatarsinh Raj 2004 1 CLR 397 wherein it was observed that herein the corporation challenges the judgments and orders passed learned single judge in the writ petition awarding the relief of the reinstatement without back wages to respondent-badli sepoy, who was terminated from service on account of the misconduct which was duly proved in departmental inquiry, and which order was not disturbed by the labour Court, while awarding compensation to the workman. It was held that “BADLI WORKERS” are not employees of GSRTC in view of the regulations 16 of the Gujarat State Transport Employees’ Service regulation. The discipline and appeal procedure is also not required to be adhered. In case of BADLI WORKERS. By no stretch of imagination, it can be said even for a moment that the respondent workman is deprived of having benefit of the principles of natural justice, and this contention is only an afterthought and cannot be accepted as it runs diametrically opposite to the weight of record and established principles of jurisprudential concept of principles of natural justice. Though the delinquent, a poor workman, in reality, by employment of this judgement would be condemned and rendered jobless at the age when it would be difficult for him to secure regular temporary or permanent employment, and considering the social circumstances, financial status and the principles of the provisions of Section 11-A of the Act, coupled with the fact that the Labour Court had already awarded compensation. A compensation of Rs.20,000/- payable to the respondent-workman by the appellant would meet the ends of justice.

(b.) Apex Court in Gujarat State Road Transport Corporation Vs Chandulal G. Rasadiya wherein it was observed that it is true that ‘Badli workers’ are not employees of Corporation in view of Regulation 16. Therefore the Discipline and Appeal Procedure is not required to be followed in case of Badli workers. Badli workers are not having any right to hold any post or that they are not having any status as employees of the Corporation, but at the same time it cannot be said that they can be stigmatised for their alleged misconduct without following the principles of natural justice. What sort of procedure for establishing the alleged misconduct against the Badli workman is required to be followed would depend upon the alleged misconduct of the workman as well as his contention in reply to the show cause notice. If the workman

does not dispute the allegation made against him in the show cause notice, then it may not be necessary to hold any further inquiry. Similarly, if he does not reply to the show cause notice, it may not be necessary to hold any further inquiry. If he admits some allegations which are serious, then also it may not be necessary to hold the inquiry.

(c.) Supreme Court of India in Karnataka State Road Transport Corporation and Another Vs. S.G. Kotturappa and another wherein it was observed that herein The Supreme Court held, gave them no status, their services were not protected by any statute and they did not hold any civil post. The Supreme Court further pointed out that in any event the instant cases were not such as would require compliance with Section 25-F of Industrial Disputes Act, 1947 as the respondents had not completed 240 days' service in the year preceding the termination. Adverting to the question as to what extent principles of natural justice were required to be complied with, the Supreme Court observed what was needed for the employer in a case of this nature was to apply the objective criteria for arriving at the subjective satisfaction.

12. **ISSUE NO i & ii :-** Whether the second party was workman within the definition of section 2 of the Industrial Disputes Act? - and Whether the second party workman served the first party for more than 240 days? - the burden to prove this issue that the first party has stated in his statement of claim and deposition that he worked more than 240 days in 1994 and 1995 and also stated that till retrenchment he served the first party. But First party's witness Nitin Chinubhai Brahmbhatt in his affidavit Ext.23 has stated that Bank is required to follow the recruitment procedure. As second party does not fulfil the education eligibility despite the fact that he was engaged as temporary Badlee Sepoy, therefore, could not be empanelled for appointment in permanent vacancy. Second party was not sponsored by employment exchange and did not fulfil the recruitment norms in respect of age and education qualification entitling him for empanelment. This arguments has no force because generally if there is any eligibility criteria for permanent recruitment then same would apply for the temporary recruitment. Thus the first party has not come with the clean hands concealing the truth. First party has also not submitted the documents which were submitted in the bank by the second party at the time of fulfilment of temporary vacancy by second party. Thus, I come to the conclusion that second party was a workman and also served the bank for more than 240 days in the bank at the time of retrenchment.

13. **ISSUE NO. iii:-** Whether the retrenchment of the second party workman was legal and justified? - Section 2 (oo) defines retrenchment in the following works- means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include-

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the workman concerned contains a stipulation in that behalf;

The second party workman in his statement of claim and also in the statement on oath has stated that he served the first party for more than 240 in the year 1994 and 1995. But he was retrenched U/s 25-F of Industrial Disputes Act .Section 25-F provides as under :- "NO workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- (a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or an part thereof in excess of six months; and
- (c) Notice in the prescribed manner is served on the appropriate Government for such authority as may be specified by the appropriate Government by notification in the Official Gazette.

The burden to prove the ingredients of the section 25-F whereon first party neither in the written statement (Ext.14) nor the first party witness Nitin Chinubhai Brahmbhatt in his affidavit has stated that while retrenching the second party, he was served the notice and also was paid the required compensation. Thus, the impugned order of retrenchment is illegal and unjustified.

14. Here, I would like to refer the provisions of Section 25-G and 25-H which are as under :

"Section 25 procedure for retrenchment: Where any workman in an industrial establishment, who is citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

“Section 25-H Re-employment of retrenched workmen : Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizen of India to offer themselves for reemployment and such retrenched workmen who offer themselves for reemployment shall have over other persons.”

The aforesaid provisions indicate that in the case of retrenchment, last man will be retrenching here in this case. Second party has stated that workmen junior to him are still working which indicates that while retrenching the second party workman, first has violated provisions of Section 25-G and 25-H. It is also noteworthy that the second party has stated in his statement that depriving him from the job, first party has also appointed and regularized the co-employees Badli Sepoy junior to him. Thus, it is also a violation of Section 25-H of the Industrial Disputes Act, 1947.

15. Thus reference is fit to be allowed. Second party workman Pramod K. Parmar be reinstated with back wages. The back wages shall be recovered by first party bank from his errant officials who were responsible for the retrenchment of second party Pramod K. Parmar.

Order is passed accordingly.

This is the award of the Tribunal.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 16 जून, 2016

का.आ.1249.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक अँफ बडोदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 92/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/29/2007-आईआर (बी- II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th June, 2016

S.O. 1249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.92/2007) of the Central Government Industrial Tribunal-Cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the the management of the Bank of Baroda and their workman received by the Central Government on 16/06/2016.

[No. L-12012/29/2007-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 24th February, 2016

Reference: (CGITA) No-92/2007

1. The Branch Manager,
Bank of Baroda,
Talala, Junagadh (Guj.)

...First Party

Vs.

Their Workman,
Shri Hemantgiri Samantgiri Meghnathi
Narsinh Tekri,
B/h Gaushala, Talala (Gir.)
Junagadh.

...Second Party

For the First Party : Shri V.K. Mashar, Advocate
For the Second Party : Shri Nirav Joshi, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/29/2007-IR(B-II) dated 18.09.2007 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Branch Manager, Bank of Baroda, Junagadh and General Manager, Jamnagar in terminating the services of Shri Hemantgiri Samatgiri Meghnathi, Ex-peon w.e.f. 05.08.2005 without following the provision of the I.D. Act, 1947 is legal and justified? If not, what relief the workman concerned is entitled to?”

2. This reference dates back to 18.09.2007. Second party submitted statement of claim (Ext.3) on 20.10.2007 and first party submitted written statement (Ext.11) on 14.10.2008.

3. Second party has been absent since last several dates and has also not led evidence despite giving number of opportunities. Thus, it appears that second party are not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1250.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता, के पंचाट (संदर्भ संख्या 47/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/06/2016 को प्राप्त हुआ था।

[सं. एल-12011/39/2015-आईआर (बी- II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.47/2015) of the Central Government Industrial Tribunal-Cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the the management of the Dena Bank and their workman received by the Central Government on 11/06/2016.

[No. L-12011/39/2015-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 47 of 2015

Parties : Employers in relation to the management of DENA Bank

AND

Their workmen

Present: Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the Management : None

On behalf of the Workmen : None

State : West Bengal
Dated : 23rd February, 2016

Industry : Banking

AWARD

By Order No. L-12011/39/2015-IR(B-II) dated 15/21.07.2015 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the deceitful attitude of the management of DENA Bank by denying the charter of demands of the Union as per Annexure-A is justified? If not, what relief the members of the Union are entitled to?”

2. When the case is taken up today for hearing, none appears either on behalf of the management or on behalf of the union. It appears from the record that none appeared on behalf of either of the parties even on the previous two dates. In fact, none appeared on behalf of the parties since the initiation of this reference.

3. From the above facts and circumstances it may reasonably be presumed that the union at whose instance the present reference has been initiated has got no interest in the matter. So, no fruittual purpose will be served in keeping the matter pending.

4. Considering the above, instant reference is disposed of by passing a “No Dispute Award”.

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata

The 23rd February, 2016

नई दिल्ली, 17 जून, 2016

का.आ.1251.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1 चंडीगढ़, के पंचाट (संदर्भ संख्या 13/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/06/2016 को प्राप्त हुआ था।

[सं. एल-12011/44/2015-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.13/2015) of the Central Government Industrial Tribunal-Cum-Labour Court-I, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workman received by the Central Government on 11/06/2016.

[No. L-12011/44/2015-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-I, CHANDIGARH.

Case No. ID No.13 of 2015, Reference no. L-12011/44/2015/IR(B-II) dated 3/13.8.2015

Sh. Guru Dutt Pathak, Vice President, Punjab National Bank workers Union(NZ), Regd, House No. B-IV-1543, Mohalla Missran, Ludhiana-Punjab.

Union

Versus

The Circle Head, Punjab National Bank, Circle Office, 5 Ferozepur Road, Ludhiana-Punjab-141012.

Respondent

Appearances

For the Workman : None

For the Management : Ms. Nisha Kumari Dy. Manager HRD

Award Passed on: - 09.02.2016

Government of India Ministry of Labour vide notification No. L-12011/44/2015/IR(B-II) dated 3/13.8.2015 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Punjab National Bank in reverting Mrs. Chandra Prabha from JMG S-I to clerical cadre instead of her original position of as special assistant with Branch Officer Aggar Nagar or near by is fair, legal and justified? If not, what relief the workman concerned is entitled to and from which date?”

2. Case repeatedly called. None appeared for the workman nor any evidence is present on behalf of the union. On the last date of hearing also, no one was present on behalf of the union. It appears that the union is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh

09-02-2016

नई दिल्ली, 17 जून, 2016

का.आ.1252.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1 चंडीगढ़, के पंचाट (संदर्भ संख्या 139/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/06/2016 को प्राप्त हुआ था।

[सं.एल-12012/93/2013-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1252.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.139/2013) of the Central Government Industrial Tribunal-Cum-Labour Court-I, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workmen received by the Central Government on 11/06/2016.

[No. L-12012/93/2013-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.****Case No. ID No.139 of 2013, Reference no. L-12012/93/2013-IR(B-II) dated 16.12.2013**

Smt. Sarita Alias Santra, W/o Shri Balwan Singh R/o Village
Kheri- Brahmna, Salarpur Road, Kurukshetra.

...Workman

Versus

(1) The Deputy General Manager, Syndicate Bank, Regional Office, SCO No.76-77, Sector-17-B,Chandigarh.

(2) The Manager Syndicate Bank, Mohan Nagar, Kurukshetra.

...Respondents

Appearances

For the Workman : Shri Shyam Singh Chhokar.

For the Management : Shri Vipin Mahajan with Randip Singh.

Award Passed on: 23.02.2016

Government of India Ministry of Labour vide notification No. L-12012/93/2013-IR(B-II) dated 16.12.2013 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of (i) Dy. General Manager, Syndicate Bank, Regional Office, SCO No.76-77 Sector-17-B, Chandigarh & (ii) The Manager, Syndicate Bank, Mohan Nagar, Kurukshetra (Haryana) in termination of the services of workman Smt. Sarita Alias Santra w.e.f. 24-01-2012 is just, fair legal and justified? What relief the concerned workman is entitled to and from which date?”

2. The workman in claim statement submitted that she was employed by the respondents as sweeper on 6.10.2005 in its Mohan Nagar Branch on daily wages at DC rates, but the management paying her only Rs. 100/- per day. She worked at sweeper up to 24.01.2012 with the management when her services were terminated without any notice inspite of the fact that regular work was available. Applicant was not given any pay in lieu of notice and nor any retrenchment compensation was given though the applicant had put in more than 240 days of continuous service in every calendar year. The management has violated the provisions of Section 25F,G and H and other provisions of the I.D.Act by not allowing the claimant to join inspite of repeated requests by the applicant. It is prayed that as the termination of the applicant is illegal, arbitrary, unjust, malafide, ultra virus and against the principle of natural justice, she may be reinstated in service with full back wages, continuity in service, seniority and other allowances bonus etc.

3. The management filed written statement. Preliminary objection has been taken that the workman was never an employee of the bank and was only engaged as temporary sweeper as per requirement of the bank branch and was asked to do the work of sweeper as and when required i.e. one or twice in a three months some time for one hour and some time for two hours and she was paid as per the work done during that period of one hour or two hours. It is further pleaded that some important papers were found missing which were recovered from her possession. On enquiry she admitted her guilt, her voice were tape recorded which was taken in possession by the police. After that bank never asked her to do the job of cleanliness in the bank. The bank never appointed or engaged her and the payments were made to her for the work done and there is no question of retrenchment and provisions of the I.D.Act were not violated. It is further pleaded that the applicant has no locus standi to raise the dispute as there exists no relationship of employer-employee as no appointment or termination letter was issued to the applicant. It is also pleaded that the applicant has not completed 240 days of service as per requirement of Section 25F of the I.D.Act 1947. On merits it is pleaded that applicant was never employed by the management and she was only engaged orally on temporary/casual basis by the branch manager as per the requirement of the branch and she was not engaged on DC rates. The applicant was engaged as sweeper to clean the branch @Rs.100/- per day. The applicant was not a regular employee, therefore, not eligible for the scale wages and there is no question of deduction of provident fund and no infirmity was committed by the management in dispensing with the services of the applicant. It is also pleaded that the applicant worked intermittently and as the applicant was never engaged by the management, therefore, there is no question of retrenchment. As regard the conduct of the applicant is concerned, it is pleaded that the applicant was in the habit of making false complaints of sexual harassment against the branch head. She submitted a complaint to the police authorities and the police authorities investigated the matter and closed the case after finding the complaint to be totally false, frivolous and baseless. She filed a criminal complaint No.22 dated 7.4.2012 against the officials of the respondent bank under Section 323,354,376,511 IPC and Section 3(xi) of SC/ST Prevention of Atrocities Act Police Station Thanesar. But the aforesaid complaint was dismissed for non- prosecution by the Ld. Court vide order dated 7.5.2012. It is further pleaded that all the branch staff members passed the resolution not to continue with the services of the applicant in future due to her integrity as she stolen the photograph and other material displayed on the branch notice board. It is further submitted that the applicant has never completed 240 days in a calendar year, therefore, provisions of Section 25 F ,G &H of the I.D.Act 1947 are not attracted. The management prayed that the claim statement of the applicant is devoid of merits and the same may be dismissed.

4. In evidence, applicant filed her affidavit as Ex.W1. The management filed one affidavit Ex.M1 of Vinod Kumar Duggal. The management also relied on documents Ex.M2 to M5. Both the witnesses of the parties were examined and cross-examined by the parties.

5. I have heard the parties, gone through the evidence and record.

6. The applicant in her claim statement clearly stated that she was appointed as sweeper on daily wages at D.C.Rates but respondent /management were not paying her D.C.Rates but paying Rs.100/- per day. Management in this context has replied that claimant was engaged as temporary sweeper as per requirement of the bank branch manager. The management also submitted in its written statement that claimant was directed to do the work of sweeper as and one required i.e. once or twice in the three months, some time for one hour and some time for two hour and she was paid as per the work done during that period of one hour or two hour. The management has disputed the regular appointment of the claimant. The claimant in her statement before this Tribunal stated that “ When I was appointed by the bank I was issued appointment letter but I have not filed the same”. The claimant has not filed any document which could prove that she was appointed by the bank and any appointment letter was issued to her as per recruitment rules and following the process for recruitment. Management submitted that her services were disengaged as her work was not satisfactory and claimant was involved in making false complaints against the staff of the bank. Thus it is clear that the claimant was not appointed by the bank nor any appointment letter issued as per procedure and rules.

7. The workman cited Civil Writ Petition No. 14392 of 2012 Punjab and Sind Bank Versus Balwinder Kaur and another and Civil Writ Petition No.17770 of 2012 Punjab and Sind Bank Vs. Harbhajan Singh and others. The principle of law laid down in these case laws do not apply in the present case as facts and circumstances of these case laws were quite different from the facts and circumstances of the case in hand. In 2008(1)SLR 670 G.M.Tanda Thermal Power Project Versus Jai Parkash Srivastava and another the Hon'ble Supreme Court held that termination of services of daily wages, employee employer relationship disputed, no such post created by competent authority, direction for reinstatement cannot be issued. In 2003(4)RSJ 781 the Head Master, Government High School, Behrana Versus Ajit Singh and another, the Hon'ble High Court (DB) has held that section 25 of the I.D.Act, back door entrant, benefit of Act can not be given to respondent workman whose entry in service is clearly illegal. In AIR 1994 Supreme Court 1638 Madhyamik Siksha Parishad, U.P. Appellant Vs. Anil Kumar Mishra and others etc. Hon'ble Supreme Court has held that workers on temporary assignment only, working on unsanctioned post has no right of regularisation for such employees. Completion of 240 days of work by them can not attribute status of casual workmen to them in AIR 1997 Supreme Court 3657 Himanshu Kumar Vidyarthi and others Vs. State of Bihar and others, the Hon'ble Supreme Court has held that appointment made on the basis of need of work termination of their services can not be construed to be retrenchment and same is also not arbitrary as they were not entitled to post. In Civil Writ Petition No. 12303 of 2006 Sh. Balbir Singh Vs. Presiding Officer Ludhiana and others, the Hon'ble High Court have followed the same principle of law.

8. In view of the above legal position the claimant was engaged by the management as sweeper on daily wages and was not appointed as per rules and no recruitment procedure was followed. Hence, the disengagement of the applicant cannot be held to be unjustified, unjust and illegal.

9. It is also pertinent to mention here that as per the workman she was appointed as sweeper and was also issued appointment letter by the management. The management specifically denied and averred that the workman was engaged for cleaning work as and when needed and she was paid Rs.100/- for the work done per day. It is also specifically pleaded by the management that workman never completed 240 days in a calendar year, therefore, the management is not under obligation to serve notice of one month or pay in lieu of notice and retrenchment compensation before termination of the services of the workman. The workman claim that she was appointed in the bank as sweeper and the workman had to prove her case that she was appointed in the bank as sweeper and was issued appointment letter by the management. The workman has not filed even a single document to prove her version that she was appointed by the bank. Thus the management is not under obligation to serve notice of one month or pay in lieu of notice and to pay her the retrenchment compensation. The applicant failed to prove that she worked 240 days in preceding year from the date of termination. From the above discussion, it is clear that the applicant is not entitled to any relief.

10. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh.

23.02.2016

नई दिल्ली, 17 जून, 2016

का.आ. 1253.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, चंडीगढ़, के पंचाट (संदर्भ संख्या 11/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/06/2016 को प्राप्त हुआ था।

[सं. एल-39025/1/2010-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1253. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.11/2012) of the Central Government Industrial Tribunal-Cum-Labour Court-I, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab and Sind Bank and their workmen, received by the Central Government on 11/06/2016.

[No. L-39025/1/2010-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

Before Shri Surendra Prakash Singh, Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court-I, Chandigarh.

Case No. ID 11 of 2012.

Shri Hans Raj son of Shri Gurdev Singh, resident of House No. 140/30C,
Anand Nagar-B, Patiala(Punjab)

...Workman

Versus

1. Punjab & Sind Bank, Zonal Office, New Lehal colony, Rajbaba Road, Patiala, through its Zonal Manager.
2. Punjab & Sind Bank, Branch Office, 22 No. Phatak, Patiala through its Branch Manager.
3. Currency Chest, Punjab & Sind Bank, Rajbaba Road, Patiala, through its Manager.
4. Punjab & Sind Bank, Bank house, 21 Rajendra Place, New Delhi through its Managing Director.
5. Punjab & Sind Bank, Bank house, 21 Rajendra Place, New Delhi through its Deputy General Manager.

...Respondents

Appearances

For the Workman : Sh. O.P.Batra Advocate

For the Management : Sh. J.S.Sathi Advocate.

Award Passed on: 10th March 2016.

1. The workman raised the dispute directly to this Tribunal regarding his alleged termination of service by the respondent management of Punjab & Sind Bank on the certificate issued by the Assistant Labour Commissioner (Central), Chandigarh vide its letter No. 2278(E) dated 15.9.2010 under Section 2(a)2 of the Industrial Disputes Act, 1947 as the conciliation proceedings not concluded in prescribed time under the law. The workman filed claim statement stating therein that workman was appointed as Armedguard by the management vide letter dated 7.7.98 and workman joined the management on 13.7.1998 and he was drawing Rs. 8200/- per month at the time of his termination by the management on 12.3.2008. It is further pleaded by the workman that his work and conduct remained satisfactory during his entire service period and there was not even a single complaint against the work and conduct till 29.8.2006 when the workman was placed under suspension vide letter dated 30.8.2006. It is further pleaded by the workman that show cause notice was issued to him by the management which was duly replied. The management did not consider the reply judiciously and charge sheet dated 15.12.2006 was issued to the workman which is as under:

“You failed to perform your assigned duties of Gunman. Thereby committed a security lapse and put the bank to danger which amounts to willful insubordination or disobedience of any lawful and reasonable order of the management and you have acted in connivance with and misused your position in furtherance of the interests of Sh. Bhupinder Singh Bains. Manager & Sh. Surinder Singh Tiwana, Officer in a deceitful manner, so as to put the bank to pecuniary loss of its funds as under:-

1. You have performed duties of cashier in place of Sh Satinderjit Singh without the approval of competent authority on following duties:

01-08-2005,08-08-2005,11-10-2005,24-10-2005,07-12-2005.

22-12-2005,13-01-2006,04-02-2006,10-02-2006,14-02-2006.

28-02-2006,11-03-2006,22-03-2006,25-03-2006,30-03-2006

31-03-2006,03-04-2006,13-04-2006,15-04-2006,19-04-2006.

29-04-2006,04-05-2006,22-05-2006,29-05-2006,31-05-2006.

05-06-2006,28-06-2006,12-07-2006,22-07-2006

2. You have claimed local conveyance for the jobs meant for a peon/messenger for outside duties on following dated:

Jan' 2006:2,3,9,13,14,23

Feb'2006:4,6,9,10

Mar'2006: 9,11,22,24,25,27,29,31
 Apr' 2006: 3,4,5,8,10,11,12,13,15,18,19,2,29
 May'2006: 1,3,15,23,25,31
 Jun' 2006: 7,8,10,17
 Jul' 2006: 4,5,7,10,11,13,18,27

B. You have got undue advantage of finance through local bill purchased a/c on 16 occasions from 30-05-05 to 19-06-06, which remained outstanding for unreasonably long period from EC 22 No. Phatak, Patiala (presently upgraded to a Branch Office), where the credit was afforded to a/c no.1121 & CA 2 being maintained in your name:

Sr. Date	Amt.	Dt. of realization	Particulars
1.30-05-05	2000-00	04-07-05	BO Rajbaha Rd.Pta
2.08-07-05	1700-00	28-07-05	-do-
3.29-07-05	2000-00	25-08-05	-do-
4.10-03-05	2000-00	25-08-05	-do-
5. 06-09-05	4500-00	28-09-05	-do-
6.03-10-05	5000-00	28-10-05	-do-
7.31-10-05	2000-00	24-11-05	-do-
8.13-12-05	1000-00	14-12-05	22 No.Phatak,Pta
9.14-12-05	3500-00	19-12-05	-do-
10.20-01-06	2500-00	28-01-06	Bo Rajbaha Rd.Pta
11.03-02-06	5000-00	24-03-06	-do-
12.09-02-06	5000-00	24-02-06	-do-
13.04-04-06	2500-00	28-07-06	-do-
14.02-05-06	3500-00	30-05-06	-do-
15.01-06-06	3000-00	28-07-06	Bo 22 No. Phatak, Pta
16.19-06-06	2000-00	12-08-06	-do-

- These entries remained outstanding for more than reasonable period of time except the entry at Sr.No.8.
- Some of the entries were not realized in normal banking course i.e through clearing.
- The entry at Sr.No.10 was adjusted by depositing cash.
- BO Rajbaha Road, Patiala was your parent branch during the period these entries took place and there is no other apparent motive for purchase of these instruments except to enjoy funds without having credit in your account at BO Rajbaha Road, Patiala.
- You have got purchased instruments mentioned at Sr. No.8,9,15 and 16 where the collecting and drawee branches are same i.e. 2 No. Phatak, Pta.

C. You have claimed local conveyance as mentioned at Sr.No.1,2,3, which are unreasonable in comparison to prevailing fares & payment for stitching of vouchers at Sr.No.4 to 7.

Date	Amt.	Particulars
22-03-06	40	To go to firing range
22-03-06	75	To go to firing range
22-03-06	50	To go to mall Rd,BO,ZO Patiala & Income Tax deposit
29-04-06	100	For stitching Vouchers
10-05-06	100	For stitching Vouchers

22-05-06	100	For stitching Vouchers
05-06-06	100	For stitching Vouchers

You have also made a payment while officiating as Head Cashier on 28-06-06 of Rs.40-00 without obtaining the signatures of the payee.

Your above acts are acts of Gross Misconduct in terms of para 19.5(e) & 19.5(j) of the Bipartite Settlement dt.19-10-66 (amended) upto date which read as under:

Para 19.5(d) “ willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior.”

Para 19.5(i) “doing any act prejudicial to the interest of the bank or gross negligence involving or likely to involve the bank in serious loss.”

You are directed to submit your statement of defense to this charged sheet within ten days of receipt. Please note that if no written statement of defense is received from you within the stipulated period it shall be presumed that you have nothing to state in the matter and bank shall proceed further in the matter per Bipartite Settlement (amended up-to-date)”.

2. It is further pleaded by the workman that the inquiry officer was appointed but the procedure of the inquiry was not explained to the workman. List of witnesses and list of documents have not been supplied to him, copy of the inquiry proceeding was not given to him. No proper opportunity was given to the workman to defend during inquiry proceedings by the inquiry officer which amounts to violation of principle of natural justice. The inquiry was not conducted impartially. In defence, documents produced were not considered by the inquiry officer and his services were terminated without affording him any personal hearing. The appeal filed against his illegal termination was also rejected without considering on the merits. It is prayed that the inquiry may be declared as void ab initio and the workman may be ordered to be reinstated in service with continuity and full back wages. It is also pleaded that the workman filed a civil suit against his illegal termination. On the objection of the management the suit was rejected.

3. The management in written statement, taken preliminary objection that workman filed a civil suit in the court of Civil Judge Patiala which was rejected on 1.12.2001 with a direction to present the same before the appropriate forum. On merits it is pleaded that workman was placed under suspension on account of contemplation/pendency of enquiry into serious charges of misconduct committed by the workman. As the reply furnished by the workman to the charges sheet was not found satisfactory, therefore, the competent authority appointed enquiry officer and nominated presenting officer for holding detailed department enquiry in the allegations as mentioned in the charge sheet dated 15.12.2006. The enquiry officer conducted the enquiry and full opportunity was given to the workman to defend himself during inquiry. The workman was present on each and every date of inquiry, never raised any objection that he was denied opportunity. The workman was provided copies of all the relevant documents and granted opportunity to inspect the record. The workman allowed to engage defence representative of his choice who participated in the inquiry along with workman on the several occasion. All the witnesses of the management were cross-examined by the defence representative of the workman. The workman signed the proceeding on each and every date of inquiry. Written submission were also acknowledged by the Enquiry Officer. He was also given time to submit his argument. The inquiry report was provided to the workman. Each and every opportunity was given to the workman to defend himself during the inquiry. Appeal filed by the workman was duly considered by the appellate authority and rejected by a detailed order. It is prayed that inquiry was conducted adhering to the principle of natural justice and full opportunity was given to the workman to defend himself and there is no illegality infirmity in the inquiry and the termination of the workman is legal and justified.

4. Earlier arguments of the parties were heard on the issue of fairness of enquiry. This Tribunal vide order dated 7.11.2014 held as under:

“From the record of the case it is revealed that charge sheet was issued to the workman to which reply was filed by him. The enquiry officer was appointed. The workman was allowed to engage the representative of his choice to defend himself in inquiry. DR of the workman cross-examined the witnesses of the management and the workman was also allowed to produce his own affidavit. Workman also submitted written arguments which were duly considered by the inquiry officer and inquiry report was submitted to the disciplinary authority. Copy of the enquiry report was also sent to the workman and the workman was given full opportunity to defend himself during inquiry. The workman was present on each and every date of enquiry. From the record it is also revealed that at no stage the workman raised any objection that he was not given any opportunity to defend himself. Therefore, taken into consideration the facts and circumstances it is held that inquiry was conducted fairly and properly as the workman failed to point out any infirmity in the inquiry.

Though the departmental inquiry is found fair and proper even then this Tribunal thinks it proper to afford the opportunity to the parties on the point of perversity and quantum of punishment.”

5. In view of the above, the parties were given opportunity to lead evidence on the issue of perversity and on quantum of punishment.

6. In evidence, the workman filed his own affidavit. The workman was also cross-examined by the counsel for the management. The management it its evidence also placed on file the affidavit of Shri J.M.Singh senior manager Punjab & Sind Bank Zonal Office Patiala who was also cross-examined by the counsel for the workman.

7. I have heard the parties, gone through the evidence and record of the case.

8. As discussed above, the enquiry has been held fair and proper. So far as the issue of perversity and quantum of punishment are concerned, workman submitted that he was appointed as armed guard at the branch and he was bound to obey and follow the instructions issued by the Branch Manager and in compliance of the instructions of the branch manager, he was doing cashier duty on some occasions. Workman also submitted that he was maintaining the cash book as directed by the branch manager and the cash book was countersigned by the manager. In this regard, the workman referred to the cross-examination of the witness of the management shri J.M.Singh Senior Manager Punjab & Sind Bank who stated in cross-examination as under:

“Manager is competent to engage any security man to any duty and manager is authorized to pay the difference of pay for that particular date. Manager can engage any employee for particular duty in addition to his own duty. Cashier entries are countersigned by the managers. The whole cash book is countersigned by the manager.”

9. This witness of the management also stated in cross-examination that “ if any employee is sent out side for official duty, then the manager certify his outdoor duty and pay TA/DA as per bank rule. Workman perform outdoor duty and he was accordingly paid TA. It is correct that cheque bill purchase power is invested in the branch manager. This cannot be done by cashier or any other clerk”. From the above, it is clear that the workman being the armed guard perform duty of cashier following the instructions of the manager.

10. The workman further submitted that the punishment imposed upon the workman is highly disproportionate and the workman in this regard submitted that this Tribunal has the power to substitute the disproportionate punishment under Section 11A of the Industrial Disputes Act 1947. The workman also cited the following case laws:

- i) 1989 L.I.C. 1043 (S.C.) Scooter India Ltd. Vs.Labour Court Lucknow and others.
- ii) AIR 1984 SC page 321 Management of Hindustan Machine Tools Ltd. Vs. Mohd Usman and another.
- iii) 1996(1) RSJ 89 Punjab State Co-operative supply and Marketing Federation Ltd. Vs. Balbir Singh and another.
- iv) 1999(3)RSJ 19 Punjab State Civil Supplies Corporation Ltd. Vs.Presiding Officer,Labour Court Bhatinda.
- v) 1997(3) SCT 572 Virender Singh Vs. M/s. Remington Rand of India(P) Ltd. and
- vi) 2008(3) RSJ 150Mavji C Lakum Vs. Central Bank of India.

11. Section 11A of the ID Act 1947 provides as under:

“11-A.Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen. –Whearas an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct re-instatement of the workman on such terms and conditions, if any, as it, thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require”.

12. Considering the entire facts and circumstances of this particular case, in my view, it is fit case to invoke the above provisions of the I.D.Act.

13. Thus by exercising the powers under Section 11A of the I.D.Act , the punishment of dismissal without notice from bank's services is hereby substituted with reinstatement in service at the lowest scale of pay as armed guard without any back wages and monetary benefit within one month from the date of publication of the award. The workman shall also not be entitled to any pension benefits from the date of dismissal to the date of reinstatement.

14. The industrial dispute is answered accordingly. Central Govt. be informed. Soft as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh.

10.03.2016

नई दिल्ली, 17 जून, 2016

का.आ.1254.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 108/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/05/2016 को प्राप्त हुआ था।

[सं. एल-12012/79/2011-आईआर (बी-1)]
रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 17th June, 2016

S.O. 1254. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.108/2011) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the the management of the State Bank of India and their workman received by the Central Government on 25/05/2016.

[No. L-12012/79/2011-IR(B-I)]
RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/108/2011

Shri Shiv Shankar Nishad,
Ex-Messenger, Barrier Chowk,
Near Shiv Mandir, Champa,
Distt. Janjgir- Champa (CG)

...Workman

Versus

Regional Manager,
State Bank of India,
Regional Business Office-7,
Bayron Bazar,
Distt. Raipur (CG)

Branch Manager,
State Bank of India,
Branch Champa,
Distt Janjgir, Champa CG

...Management

A W A R D

Passed on this 6th day of May, 2016

1. As per letter dated 22-11-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/79/2011-IR(B-I).The dispute under reference relates to:

“Whether the action of the management of State Bank of India, Regional Business Office-7, Bayron Bazar, Raipur and SBI, Champa Branch, Distt. Janjgir Champa in terminating the services of Shri Shiv Shankar Nishad w.e.f. 1-11-2010 is legal and justified? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim. Case of Ist party workman is that he was engaged as messenger in Champa branch on 9-7-87. He was working 8 hours every day. He was working as messenger in the Bank from 9-7-87 to 1-11-10. He was paid from contingency fund. His services were orally terminated on 1-11-2010. He was not served with notice, retrenchment compensation was not paid to him. He had completed more than 240 days continuous service each of the year. His services are terminated in violation of Section 25-F of ID Act.

3. Ist party further submits that provisions of ID Act are applicable to 2nd party. On 15-12-08, he ad submitted representation for regularisation on the post of messenger. Information regarding his services was submitted to Regional Office on 28-2-09, other employees working with him were regularized in 1990. He was called for interview on 19-2-98. He was selected after interview but appointment letters was not given to him. Workman submits that he is eligible for regularisation instead of regularisation, his services are illegally terminated. On such ground, workman prays for his reinstatement with backwages.

4. 2nd party filed written Statement opposing claim of workman. 2nd party contends that workman was never employed by the Bank. Work of messenger was extracted from him in addition to his work as canteen boy on need basis. workman not regularly worked as messenger. Workman was disengaged by Local Implementation committee of the Bank on 30-10-2010. As his services were not required. Workman had not worked 240 days during any calendar year. Settlement dated 17-11-87 was arrived between staff federation and management. Said settlement provided that temporary employees completing 240 days continuous service in block of 12 months temporary employees completing 240 days continuous service in block of 36 months, 30 days aggregate temporary service or minimum 70 days aggregate service in block of 36 calendar months from 1-7-75 were treated as Category A,B, C. workman was called for interview on 19-2-90 as per said settlement. Workman was not found suitable for absorption, he not completed 240 days service. He is not entitled to protection of section 25-F of ID Act. It is reiterated that workman is working as canteen boy. He was engaged and terminated by Local Committee managing the canteen. Bank did not terminate him. On such ground 2nd party prays that reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of State Bank of India, Regional Business Office-7, Bayron Bazar, Raipur and SBI, Champa Branch, Distt. Janjgir Champa in terminating the services of Shri Shiv Shankar Nishad w.e.f. 1-11-2010 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. The term of reference pertains to legality of termination of workman from 1-11-2010. Regularisation of workman is not included in term of reference. Therefore pleading in statement of claim and evidence of workman on the point of denial of regularisation is beyond the terms of reference and cannot be considered. Controversy between parties is only related to legality of termination of workman needs to be considered.

7. Workman filed affidavit of his evidence. Workman has stated that he was engaged on 9-7-87 and continued to work till 1-11-2010 in chhapa branch as messenger. He worked with devotion. He produced certificate about his working. In 1991 to 1998, he worked for 452 days. That he completed 240 days working during every calendar year. His services were terminated without notice. Retrenchment compensation was not paid to him. In his cross-examination, workman says during 1987 to 2010, he was working as canteen boy and messenger. He was directly engaged, any recruitment procedure was not followed before his engagement. When workman was asked whether he was serving drinking water to the welfare committee, workman did not give straight reply and claimed that he was working as messenger. Workman denied that he was terminated by Chairman of Welfare Committee. Initially he was working as canteen boy and he was working as messenger as per need. He denied that he did not work 240 days during any of the year. Workman has produced documents Exhibit W-1 certificate of temporary service, 38 days in 1987. Exhibit w-2 is certificate of working for the period 4-7-94 to 28-9-94 for 62 days. Even if evidence of Ist party is accepted, he worked for 450 days during 1991 to 1998, the evidence is not sufficient to prove that workman worked continuously for 240 days in 12 calendar years preceding termination of his service on 1-11-2010.

8. Evidence of management's witness B.Govind Rajan is devoted on most of the contentions of Written Statement filed by 2nd party that workman was not engaged or appointed by the management. After 1st party workman was interviewed on 19-2-90, he was not found suitable. 1st party was engaged as canteen boy by Local Implementation Committee.

9. Management's witness in his cross says he is working in chhappa branch in 2013. Prior to it, he was not posted in said branch. Management's witness was unable to tell when workman was engaged as canteen boy, how payments were made to him. Workman was called for interview in 1990, any select list is not produced. Management's witness was unable to tell whether Asharam and Pardeshiram were called for interview when workman was interviewed. Management's witness denied that workman had worked continuously more than 240 days during 1987 to 2010. Workman was not paid retrenchment compensation as he was working on canteen. The evidence on record is not sufficient to establish that workman continuously worked more than 240 days preceding 12 months of his termination in October 2010. Therefore the workman is not entitled to protection of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1255.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक बीकानेर एण्ड जयपुर प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 93/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/06/2016 को प्राप्त हुआ था।

[सं. एल—12012/701/87-डी. II-ए—आईआर (बी—I)]
रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 17th June, 2016

S.O. 1255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.93/89) of the Central Government Industrial Tribunal Cum Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Bikaner and Jaipur and their workmen received by the Central Government on 14/06/2016.

[No. L-12012/701/87-D.II-A-IR(B-I)]
RANBIR SINGH, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT, KANPUR.

Industrial Dispute No. 93 of 89

In the matter of dispute between—
Sri Sita Ram Bharbhuj,
C/o Sri V. N. Sekhari,
26/104 Birhana Road,
Kanpur.

AND

The Branch Manager,
State Bank of Bikaner & Jaipur,
Panna M.P.

AWARD

1. Central Government, Mol, New Delhi, vide notification No.L-12012/701/87-D.II-A dated 10.04.89 has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of State Bank of Bikaner and Jaipur in terminating the services of the workmen mentioned in the Madhya Pradesh High Court at Gwalior Bench WP No.10/88 and 578/88 as indicated in the

Annexure and not considering the for further employment while recruiting fresh hands under section 25H of I.D. Act is justified? If not to what relief are the workmen concerned entitled to?

3. Brief facts are-

4. There were a number of industrial disputes numbering 124/86, 129/86, 1/87, 11/87, 14/87, 93/89 269/90 and 33/91. All the industrial disputes were decided by a coon award dated 30.09.97 by the then learned Presiding Officer Sri B K Srivastava. It was held in the award that the removal from service of all the concerned workmen except Kali Prasad Bhawani Bux Siungh, Mithlesh Kumar Ranjeet Kumar Gupta and Yogendra Prasad is bad I law being in breach of provisions of section 25H of Industrial Disputes Act. Consequently my award is that they will be entitled for reinstatement without any back wages. Thereafter management of State Bank of Bikaner & Jaipur civil misc writ petition number 2399 of 98. This writ petition was filed against six respondents i.e. Shyam Sunder, Ram Chamoli, Adesh Kumar Garg, Sushil Kumar Singhal, Veer Sen Jain and Anil Kumar petition was filed against six respondent. I would like to say that all these six respondents are the claimant in the aforesaid I.D. No. 93 of 89 which has been disposed off by the Hon'ble High Court with certain directions vide its order dated 20.04.99. The Hon'ble High Court held that the impugned award is set aside and the matter is remanded back to the tribunal for fresh decision on the question as to whether fresh appointments were made. Further the tribunal will also consider as to how many appointments were made, in which branch or zones such appointments were made and thereafter record detail finding if necessary, the tribunal will give fresh opportunities of leading evidence to both the parties.

5. Here first of all I would like to say that the tribunal has given fresh opportunities to both the parties to file oral or documentary evidence. Sufficient opportunity has been given.

6. Facts of all the claimants though they have filed separate claim statements are almost identical and the opposite party has also file reply written statement which is also the same on legal points. I also like to mention that the original file was misplaced and the file has been reconstructed by learned predecessor so there are only photocopies of the record.

7. In brevity I mention th fact regarding claim of Sri Singhal. It is stated that the opposite party instead of appointing permanent employee for doing the regular duties of permanent nature started a practice of appointing employees designating the a temporary employee for doing the work of regular nature in order to deprive such workmen from continuing in service and becoming a regular employee as also to deprive them from the benefits of modified Sashtry Award. Such appointments were made not exceeding 80 days in terms. As such he was appointed at the bank's mujaffarnagar branch as clerk from 29.06.81 to 16.09.81 after which his services were terminated without any reason or justification services as there was shortage of permanent staff instead continuing the claimant with effect from 17.09.81. There was no justification of retrenchment or termination of the service as there was shortage of permanent staff. Instead of continuing the claimant fresh hands were employed to discharge the similar duties of the cadre as the work for which the claimant was employed was of a regular nature. He was not the junior most when his services were terminated and no seniority list was maintained as required under the provision of section 25G and the rules made there under. Even no seniority list was maintained as provided under para 507 of Shastry Award. Fresh hands were employed by the bank after termination of his service without affording any opportunity of reemployment. Therefore, the bank violated the provisions of section 25G of the Act also provision of section 25H of the Act and also rule 78 made there under. Therefore, they have prayed that the action of the management in terminating their services be declared as unjustified and void and they should be reinstated.

Similar are the facts of other claimants. In the case of Shyam Sunder he had worked from 6.4.78 to 24.6.78 at Mujaffar Nagar Branch of the opposite party as peon.

8. Sri Veer Sen Jain had worked as clerk with effect from 14.4.81 to 02.07.81 at Mujaffar Nagar Branch.

9. Sri Ram Chamoli is alleged to have worked as clerk from 9.6.83 to 27.8.83 at Mujaffar Nagar Branch of the opposite party, Sri Anil Kumar is alleged to have worked as clerk from 30.12.82 to 19.3.83 at Mujaffar Nagar of the opposite party, Sri Adesh Kumar has worked as clerk in the opposite party bank at Mujaffar Nagar Branch with effect from 09.06.83 to 27.08.83.

10. Opposite party has filed the written statement. It is alleged by them that the claimants have not completed more than 240 days, their case does not come within the purview of the retrenchment. As such they cannot get the benefit of section 25G and 25H of the Act. Further said that there is banking service recruitment board for recruitment of clerks and other members covering the concerned workmen they cannot be taken into service without clearing in the examination held by such board. Further said that these appointments were made for fixed term as such they have got no right what so ever because section 2(oo)(bb) of the Act. It is noteworthy that the opposite party bank has not denied that they had worked for 80 days.

11. Rejoinder statement on behalf of the workmen have also been filed but nothing new has been submitted therein except reiterating the facts already pleaded by them in the claim respective claim statements.

12. Heard the arguments perused the records. It is true that the claimants have not adduced any oral or documentary evidence after the remittance of the case from the Hon'ble High Court. Whereas the opposite party bank has adduced oral as well as documentary evidence in respect of the points mentioned by the Hon'ble High Court regarding fresh appointment and the basis.

13. Opposite party has Kishan Lal Gupta, branch manager as a witness .W.1. He stated on oath that the claimants were engaged for a fixed period and appointment letter itself includes the termination. They were or retrenched. The claimants have not moved any application for renewal of service. The claimants had not worked on such posts where the work of a regular nature. It is stated that the bank has given an advertisement in the news paper on 7.7.87 and thereafter on 18.07.87 for taking all those workers who had been temporarily engaged by the bank, they could have moved an application but the claimants after the publication did not move any application for taking them on job. They have not worked for 240 days or more they did not work for 90 days.

14. Opposite Party has also filed affidavit of Sri Kishan Lal Gupta who is a manager of the opposite party. This affidavit is dated 10.07.02. This affidavit has been given in reference to the application moved by the claimant dated 27.02.01. It is stated in para 2 that after due and thorough search it has revealed that Sri Yogesh Kumar Garg, (2) Suil kumar Taneja, (3) Prabhu Ram, (4) Rajesh Kumar, (5) Desh Raj, (6) Shyam Singh (7) Mukesh Garg and (8) Mahesh Pal. I have been appointed in the bank service through banking service recruitment board. Their appointment letters have been located and the same are being filed (1) Sri Ganga Singh Rajput, (2) Sri C P Lamb, (3) Ram Ji Prasad, Satyawan Singh ad Vinay Kumar Dubey were not appointed by the bank.

15. CGIT Kanpur passed the award dated 14.5.87 in I.D. Case No. 41 of 46 and against the said award the management preferred writ petition before the Hon'ble High Court vide its order dated 16.07.87 interalia directed that the operation of impugned order dated 14.5.87 shall remain stayed subject to the bank paying to the workmen concerned the entire wages up to the date with effect from 10.05.87 and it shall be open to the bank to either to take work from the workman concerned or to continue to pay him wages month by month as stated therein. As per directions of the Hon'ble High Court the bank preferred to take work and pay wages or the said period. It is stated that it was only as per direction of the Hon'ble High Court. It is stated that Smt. Krishna Gupta was appointed on compassionate ground after the death of her husband Sri R K Gupta. Further stated on oath that in spite of best efforts the opposite party could not lay hands and found any records of Sri Pradeep Kumar Sharma, Awadhes Kumar Goel, Mirazuddin, Rakesh Kumar Pradeep Kumar and Naseem Ahmad and further details of these persons are required. It is further stated that attendance register as required are not available in the branch and appears to have been weeded out as per book of instructions since the period of retention of the attendance register is of 5 years. Copies of the appointment letters available with the bank are filed along with affidavit. No appointment letters are available in the bank of other persons named in the list of the applicant. These appointment letters are filed along with list paper no.12/1. There are 9 appointment letters.

16. On the basis of these records and evidence I have to draw the conclusion on the points referred by the Hon'ble High Court.

17. Claimants have moved an application dated 27.02.01 whereby they stated the names of twenty persons regarding fresh appointments. Regarding these persons specific and categorical explanation by way of affidavit has been given by the opposite party and appointment letters have been given by the opposite party vide application paper no.13/2. Therefore, according to the evidence it has been revealed that 9 appointments have been made by the opposite party.

18. Appointment of Sri Yogesh Kumar Garg, Sri Sunil Kumar, Prabhu Ram, Rajesh Kumar, Des Raj, Shyam Singh, Mumkesh Garg and Mahesh Pal has been made by the head office of SBBJ Opposite has filed has stated in affidavit that these appointments have been made through banking service recruitment Board and they have filed appointment letters. These appointments are for Mujaffar Nagar Branch of the Bank.

19. It is stated by the opposite party AR that it falls within the zone of Regional Manger II Delhi Zone. Regarding the fact of branch and zone auth. Representative for the claimant has not raised any doubt before me and they have not advanced any arguments on this point. Therefore, the recruitment was made by Banking Service Recruitment Board under Delhi Zone. Claimant has not filed any counter affidavit on this point or did not appear in evidence.

20. Therefore, it has been found and revealed that 8 appointments have been made through Banking Service Recruitment Board and one appointment of Smt. Krishna Gupta has been made on compassionate grounds. Regarding appointment of Sri Ganga Singh Rajput, C P Lamba, Ramji Prasad, Satyawan Singh and Vinay Kumar Dubey have been appointed under the directions of the Hon'ble High Court. Full facts have been stated in para 3 of the affidavit and narrated by me.

21. Regarding Sri Pradeep Kumar Sharma Awadhes Kumar Goel Mirajuddin Rakesh Kumar Pradeep Kumar and Naseem Ahmad respectively, it is stated that the claimant has not given further particular regarding these appointments and no such person has been appointed. On this point also there is no reason to disbelieve the affidavit of management and the oral evidence of M.W.1.

22. Therefore, this point has been made clear i.e. how many appointments have been made under which branch and under which zone.

23. Now it has to be ascertained whether the opposite party has committed breach of any of the provisions of the Act like 25G and H of the Act.

24. Claimant has moved an application dated 17.12.07 stating therein that the worker Sri Shyam Sunder peon and Sri Ram Chamoli clerk-cum-cashier are not known to the authorized representative for the workman as such does not representing the claim of these persons and not pressing the claim on their behalf.

25. Opposite party contended that they have done their acts under legal and statutory directions. If claimants are alleging any mala fide on the part of the opposite party management then it was imperative for them to come in the witness box and state before the court on oath. But none of the claimants appeared in the witness box and stated on oath. It is stated that the pleadings cannot take the shape of proof particularly where some facts are involved and decision has to be given on those facts. I agree with the contention of the opposite party. Hon'ble Apex Court has laid down in a number of decision that if anyone who wants to seek any relief from a court of law initial burden lies on him to prove the pleadings, the must come in the witness box to state the facts before the court. An opportunity has to be given to the opposite party to contradict him. Despite best opportunity given by the Hon'ble High Court as well as this tribunal none of the claimants appeared before the court to say that they were not informed according to law and provisions laid down under section 25H and rules made there under. It cannot be automatically be said that initial burden would shift to the opposite party. M.W.1 has been cross-examined at length by the authorized representative for the claimant. Only this suggestion has been given that there are persons like Sri Yogesh Kumar Garg and others mentioned in para 2 of the affidavit have been appointed by the bank directly and not through the recruitment board. As I have already stated that the recruitment mentioned in para 2 have been made through the banking service recruitment board. The suggestion has been denied by M.W.1.

26. I have also given a thought that when four claimants are left and they want some relief alleging some mala fide on the part of the management then they must have come before the court to say on oath, but they have failed for the reasons best known to them.

27. Claimants' have placed reliance upon decisions-

- 2004 (101) FLR 1171 Allahabad High Court in between M/s. Kanpur Electricity Supply Company Kesco House and PO, IT Kanpur.
- 1997 (76) FLR 393 in between Oriental Bank of Commerce versus Union of India.
- 1987 Lab IC 1361 Guj. High Court in between Gujarat State Machine Tools Corporation Limited versus Deepak.

28. I have gone through the principle laid down by the Hon'ble High Court respectfully. But in the present case as I have already stated that initial burden lies on the claimants to prove their case but they have failed so they cannot take any benefit from the aforesaid decisions.

29. Opposite party has also placed reliance upon a decision 2009 Lab IC 1693 Karnataka High Court, Management of Bangalore Chemicals and Fertilizer Limited versus Bhujanga and others.

30. I have respectfully gone through the principle laid down by the Hon'ble Court but in the present case according to the facts and circumstances opposite party are also not getting any benefits from the aforesaid decision.

31. Therefore, considering all the facts and circumstances, I am of the view that the claimants are not entitled for any relief and the reference is decided against the claimants and in favor of the opposite party bank.

RAM PARKASH, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1256.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 11/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.05. 2016 को प्राप्त हुआ था।

[सं. एल-12012/339/2001-आईआर (बी-1)]
रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 17th June, 2016

S.O.1256.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.11/2002) of the Central Government Industrial Tribunal-Cum-

Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the the management of the State Bank of India and their workman received by the Central Government on 25-05-2016.

[No. L-12012/339/2001-IR(B-I)]
RANBIR SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/11/2002

Shri Bhaiji Raikwar,
S/o Shri Shambhuprasad Raikwar,
R/o 80-81, Fagul Ka Bada, Kachiyana,
East Niwarganj,
Jabalpur.

... Workman

Versus

Asstt. General Manager,
Region-I,
State Bank of India,
Zonal Office, Marhatal,
Jabalpur.

...Management

AWARD

Passed on this 10th day of May 2016

1. As per letter dated 27-12-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/339/2001-IR(B-I). The dispute under reference relates to:

“Whether the action of Asstt. General Manager, Region-I, SBI, Jabalpur, MP in not regularizing instead terminating the services of Shri Bhaiji Raikwar, S/o Shri Shambhu Prasad Raikwar, Ex. temporary messenger, Sihora branch w.e.f. 10-12-2000 is legal and justified? If not to what relief the workman is entitled to?”

2. After receiving order of reference, notices were issued to the parties. Ist party submitted statement of claim. Case of Ist party is that he was earlier employed as messenger on Sehora branch. He worked in 2 spells from 12-7-80 to 14-10-81 & 2-2-81 to 16-5-81. Thereafter he was sent to work in society known as Sthaniya Karyalaya Samiti, State Bank of India, Jabalpur. Ist party workman worked in said society from 15-5-81 to 9-12-00. His services were dismissed from 10-12-00 without notice. Termination of his service amounts to retrenchment. He was not paid retrenchment compensation as per Section 25-F of ID Act therefore his retrenchment is illegal.

3. Ist party further submits that society was run by State Bank of India. Workman was working in the branch prior to 17-5-81 as messenger. He was transferred to society therefore Bank official is principal employer and responsible for his reinstatement. That his services could not be changed by transfer to the society. That transfer of his services to the society is with mala fide intention. He was entitled for regularization after completion of 240 days. Workman was interviewed prior to his appointment during 1980-81. Workman is not given opportunity even after he had worked continuously for 30 days. On such ground, workman prays for his reinstatement with backwages.

4. 2nd party filed Written Statement at Page 18/1 to 18/11 opposing claim of workman. 2nd party contends that Ist party workman was engaged as canteen boy in staff canteen of Sehora branch from 7-5-81 to 9-12-01. The Local Implementation Committee is welfare Committee. Manager of Bank is its President. Bank provides subsidy to the Committee for running canteen for catering services to the staff. The Local Implementation Committee recruits canteen boy. Bank has no concern with the recruitment. It has no supervision or control on working of canteen boy the Local Implementation Committee did not employ Ist party in the canteen. 2nd party further submits that Ist party was initially engaged on daily wages as temporary messenger for 95 days during the period 12-7-80 to 14-10-80, 104 days during 2-2-81 to 16-5-91 total 199 days. He was not appointed as messenger against vacant post. The engagement of workman was purely contractual on daily wage basis. Said engagement of Ist party cannot be treated as employment in the Bank. Any dispute was not raised w.r.t. non-engagement for past 20 years. There is no question of violation of provisions of ID Act. Non-engagement of workman is covered under Section 2(oo)(bb) of ID Act. Workman had not completed 240 days continuous service during any of the calendar year. Workman is not covered under Section 25 B of ID Act. Ist

party workman was not engaged following recruitment rules. only after selection regular appointments would be made. Branch Manager working at the branch had no authority to appoint sub staff on regular basis. 2nd party submits that daily wage employment cannot be continued for long period. Ist party workman worked as daily rated employee depending upon exigency of work in the branch. That the provisions of various agreements dated 17-11-87, 16-7-88, 27-10-88, 9-1-91, 30-6-96 provided opportunity for absorption for temporary employees. Last date for submission of application as per the settlement was 20-9-91 by temporary/ daily wage employees. The advertisement was also issued in newspaper. Ist party employee not applied or availed opportunity provided by the management. 2nd party reiterates that Ist party was employed by Local Implementation Committee as canteen boy. 2nd party has no concern with employment of Ist party as canteen boy. He cannot claim regularization under pretext of working more than 240 days in a calendar year. He was engaged as temporary messenger for certain periods. His non-engagement is covered under Section 2(oo)(bb) of ID Act. On such ground, 2nd party submits that workman is not entitled for reinstatement with backwages. Reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of Asstt. General Manager, Region-I, SBI, Jabalpur, MP in not regularizing instead terminating the services of Shri Bhajji Raikwar, S/o Shri Shambhu Prasad Raikwar, Ex temporary messenger, Sihora branch w.e.f. 10-12-2000 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

12. The term of reference pertains to denial of regularization and legality of termination of services of workman. Workman filed affidavit of his evidence supporting his whole contentions in statement of claim. Affidavit is filed on 21-7-05. Ordersheet dated 16-6-08 shows that management remained absent and right of cross-examination of workman was closed. Order sheet dated 23-9-09 shows that management was absent and evidence of management was closed. Case was fixed for argument. Evidence of workman remained unchallenged as management failed to cross-examine workman. Application for dismissal of reference was filed by management. As per order 31-7-13, said application was rejected for the reason that the controversy regarding legality of termination and denial of regularization was required to be decided recording evidence of the parties. Order dated 23-9-09 was recalled as per order dated 24-2-2014. 2nd party management filed affidavit of his witness Shri B.C.Patel supporting contentions of 2nd party in the Written Statement. That workman as engaged on daily wages as temporary messenger for 95 days during 95 days during the period 12-7-80 to 14-10-80, 104 days during 2-2-81 to 16-5-91 total 199 days. As per various settlements, opportunity was given to part time employees given chance for permanent employment in the Bank. Advertisement was given in newspaper inviting applications in prescribed format by casual workers working during stipulated period as per settlements. Workman was never appointed as messenger on vacant post as per recruitment rules. during 1980-81, workman worked only for 190 days, he has not completed 240 days continuous service. In his cross-examination, management's witness says workman as not appointed by the Bank. He claims ignorance when workman was appointed in canteen managed by Local Implementation Committee. Workman did not work as messenger in the Bank. He had readover the agreement between Union and management of Bank. Management's witness admitted Exhibit M-1. Pleading in Para-4 of statement of claim filed by workman are clear that he worked with the society during the period 17-5-81 to 9-12-02. The society has not been impleaded as party in the proceeding. When workman was working as messenger(temporary) for 95 days during 12-7-80 to 14-10-80, 104 days during the period 2-2-81 to 16-5-81 and his services were transferred to the society as per workman. He had not raised the dispute. Evidence on record shows workman was working with society. Said society is not impleaded as party. Document Exhibit W-1 pertains to information was called w.r.t. casual employees working as per the settlement. The copy of bipartite agreement is produced at Exhibit M-1 to M-6. When pleading of workman in para 4,5 of statement of claim shows that he was working with the society of Implementation Committee running the canteen, evidence on record is not cogent that workman continuously worked more than 240 days preceding termination of his service. Workman is not covered under Section 25 B of ID Act. He is entitled to protection of Section 25-F of ID Act. Ist party has not adduced evidence that canteen managed by Implementation Committee is statutory canteen and management of 2nd party is Principal Employer of workman. For above reasons, I record my finding in Point No.1 in Affirmative.

13. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

नई दिल्ली, 17 जून, 2016

का.आ.1257.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 51/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/05/2016 को प्राप्त हुआ था।

[सं. एल-12012/102/98-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 17th June, 2016

S.O. 1257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 51/99) of the Central Government Industrial Tribunal Cum Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the the management of the State Bank of India and their workman received by the Central Government on 25/05/2016.

[No. L-12012/102/98-IR(B-I)]
RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/51/99

Shri Dilip Mishra,
R/o Gayathri Nagar,
Old Sarafa, Bhind (MP)

...Workman

Versus

Asstt. General Manager,
State Bank of India,
Regional Office, Region-II,
Jayendraganj, Lashkar,
Gwalior.

Chief General Manager,
State Bank of India.
LHO, Hoshangabad Road,
Bhopal

...Management

AWARD

Passed on this 9th day of May 2016

1. As per letter dated 31-12-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/102/98/IR(B-I). The dispute under reference relates to:

“Whether the action of the management of State Bank of India in terminating the services of Shri Dilip Mishra w.e.f. April 97 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference order, notices were issued to the parties. Workman submitted statement of claim at page 5/1 to 5/2. Case of workman is that he was appointed as messenger at Bhind branch on 15-7-71. He was paid wages through Banker's cheque regularly from 15-7-91 to 1993. Workman was given authority letter for compliance from officers of the Bhind branch to Collect important letters from Post office. He continued to work as messengers in Bhind branch for more than 7 years. That his services are terminated in violation of Section 25-F of ID Act. His services were terminated without assigning any reasons arbitrarily. He completed more than 240 days continuous

service. Termination of his service is by way of fixation in violation of principles of natural justice. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 7/1 to 7/11 opposing claim of workman. 2nd party submits that workman was engaged purely on part time daily rated basis as waterman. He was doing work of spraying water on khasta during summer season. He worked for 30 days in June-July 91, 31 days in July-August 91, 7 days in November 91, 31 days in March-April 92, 30 days in April 92 to May 92. He was engaged on contract basis as per exigency of work. After work was over, workman was not engaged. After workman raised dispute, conciliation proceeding had failed, dispute has been referred.

4. 2nd party submits that Ist party had worked only for total 127 days. That his services were terminated from April 97. Thereafter workman was never employed. As per bipartite agreements dated 17-11-87, 16-7-88, 26-10-88, 9-1-91, 9-7-92, the sub staff were allowed opportunity for absorption. Workman did not fulfill prescribed criteria therefore he was not called for interview. The claim of workman that he worked continuously from 15-7-91 to 1993 is incorrect and false. It is denied that workman had completed 240 days continuous service or Ist party is terminated in violation of Section 25-F of ID Act. 2nd party further contends that workman is not covered under Section 25 B of ID Act. Workman was engaged temporarily as per exigencies. His non-engagement is covered under Section 2(oo)(bb) of ID Act. Workman is not terminated in violation of provisions of ID Act. On such ground, 2nd party prays for rejection of claim.

5. Workman submitted rejoinder at Page 9/1 to 9/4 reiterating his contentions in statement of claim. In his rejoinder, he has further contented that he worked more than 240 days. He was in continuous service for 7 years. He was discontinued from service in utter disregard of principles of natural justice. Action of management is in violation of Section 25 H of ID Act.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of State Bank of India in terminating the services of Shri Dilip Mishra w.e.f. April 97 is justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

7. The term of reference pertains to legality of termination of service of Ist party workman. Workman filed affidavit of his evidence supporting his contentions in statement of claim. That he was engaged as messenger from 15-7-91, he was paid wages through Banker's cheque regularly from date of his engagement in the year 1993. He was given authority to collect letters from Post office, he continued to work under such authority till 21-1-97. His services were discontinued in March 1997 without assigning reasons in violation of provisions of ID Act. As per settlement, he worked for 89 days giving him right for regularization in service. He completed more than 240 days continuous service during all those 7 years. His services are terminated in violation of section 25-F, H of ID Act. In cross-examination, workman says appointment in Bank are made after taking examination, he admitted that wages paid to him were earlier settled. He denies that he was engaged for 2-3 hours. He denies that he worked only for 27 days in the year 1991 to 1997. Branch Manager was not of his acquaintance. His name was not sponsored through Employment Exchange. From his re-examination, documents W-2 to W-4 are admitted as secondary evidence. Witness was not further cross-examined. As such documents Exhibit W-2 to W-4 are not challenged.

8. Management's witness Shri Rakesh Kumar Agrawal submitted his affidavit of evidence mentioning his working days during 1991 to 1992. That workman was engaged only for 127 days during 91 to 93. He was engaged for 2-3 hours. As per settlement dated 17-11-87 and others, the eligible candidates for fulfilling prescribed criteria found eligible for interview. Workman was not fulfilling required criteria therefore he was not found eligible for absorption. In his cross-examination, management's witness says he was appointed in State Bank of India on 7-10-83. He was working at Bhind branch during 2009 to 2012. Presently he had not seen workman, he had not seen reply filed by workman in conciliation proceeding before ALC. He did not see the original record. He was unable to tell working days of workman, he not seen attendance register, pay sheets etc. relating to workman. Bank may be in custody of those documents. Evidence of management's witness shows that he has no personal knowledge about engagement of workman and the documents are not produced.

9. Workman has produced documents Exhibit W-1 letter issued by Asstt. General Manager calling information w.r.t. engagement of workman and one Rakesh Jain, W-2 authority given to Ist party workman on 16-8-91 for collecting letters of Bank. Exhibit W-3 is not legible. Exhibit W-4 is authority letter given to workman on 11-3-97 for collecting bank letters. Exhibit W-5 is authority letter dated 16-8-96. Exhibit W-6 is copy of dak book. Exhibit W-8, 9 are authority letters given by Bank on 17-2-97, W-10, 11 are copies of peon book about delivery of letters. Evidence of

workman shows he was working in the Bank in the year 1997. Though management's witness says the workman was working in the Bank, the documents of payment of wages or attendance of workman are not produced. Evidence of management's witness shows that management has withheld documents. Exhibit W-2,3 also shows workman was working in the Bank during the year 1996 as messenger. As 2nd party has not produced documents to establish that workman was engaged only for 127 days for 2-3 hours, in my considered view, evidence of workman corroborated by documents deserves to be believed. Workman was terminated without issuing notice, he was not paid retrenchment compensation. Therefore termination of service of workman is in violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

10. Point No.2- In view of my finding in Point No.1, workman is terminated in violation of Section 25-F of ID Act, question remains for consideration whether workman is entitled for reinstatement with backwages.

11. Learned counsel for 2nd party Shri Vijay Tripathi emphasized that workman was not engaged following recruitment rules. appointment letter was not given to him. Workman is not entitled to reinstatement with backwages. Learned counsel for 2nd party submits that reasonable compensation may be awarded.

Learned counsel for workman relies on ratio held in

Case of Tapash Kumar Paul versus BSNL and another reported in 2014-15-SCC-313- their Lordship dealing with point of reinstatement/ backwages/ compensation in lieu of reinstatement when may be awarded substitution for order of reinstatement by awarding compensation must be based on justifiable grounds like- (i) where industry is closed, (ii) where employee has superannuated or is going to retire shortly and no period of service is left to his credit, (iii) where workman has been rendered incapacitated to discharge duties and cannot be reinstated, (iv) when he has lost confidence of management to discharge duties.

Termination of workman in violation of Section 25-F of ID Act is entitled to reinstatement with backwages since in absence of full back wages, employee would be distressed and suffer punishment for no fault of his own in absence of proof of gainful employment.

2nd party has not adduced evidence that after termination of his service, workman was in gainful employment. Workman was terminated long back and his evidence is not disclosing how he is living all those long years. Considering above facts, in my considered view, instead of full back wages, payment of 50 % backwages would be appropriate. Therefore I record my finding in Point No. 2 that workman be reinstated with 50 % backwages.

12. In the result, award is passed as under:-

- (1) The action of the management is not proper and legal.
- (2) 2nd party management is directed to reinstate workman in the same position with 50 % backwages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1258.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 179/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/05/2016 को प्राप्त हुआ था।

[सं. एल-12012/149/2003-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 17th June, 2016

S.O. 1258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 179/03) of the Central Government Industrial Tribunal Cum Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the the management of the State Bank of India and their workman received by the Central Government on 25/05/2016.

[No. L-12012/149/2003-IR(B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/179/03

Shri Umesh Tiwari,
 S/o Shri Bhawani Prasad Tiwari,
 R/o Jaipuriya Gali,
 Tehsil Road, Sabalgarh,
 Distt Morena (MP)

...Workman

Versus

General Manager (O),
 State Bank of India,
 Local Head Office,
 Hoshangabad Road,
 Bhopal.

...Management

A W A R D

Passed on this 12th day of May 2016

1. As per letter dated 21-11-2003 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/149/2003-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of General Manager (O), State Bank of India, Bhopal in terminating the services of the workman Shri Umesh Tiwari, S/o Shri Bhawani Prasad Tiwari w.e.f. 1996 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 7/1 to 7/3. Case of workman is that he has passed middle school exam in 1980. He worked as full time Class IV employee (messenger) at Sabalgarh branch of 2nd party. From 8-3-92 to 21-12-92, 1-1-93 to 31-3-93, in 1995, he worked for 88 days, in 1996 for six days. Workman further submits that other persons Ajay, Kailash shivhare were taken on permanent establishment of the Bank. The workman similarly situated illegally. Workman had submitted applications to the management in prescribed forms time to time as per settlements between management and federation were of no avail. He served legal notice through counsel. Action of management is violative of provisions of ID Act. Workman claims he is entitled for permanent absorption as sub staff in the bank. The settlement were revised time to time and conditions were further retained at the time of workman ought to have been taken in permanent service regularizing his services. Workman was thrown out of employment denying the regularisation as per settlement. On such ground, workman prays that management be directed to consider him for absorption in regular cadre in regular sub staff reinstating in service.

3. 2nd party filed Written Statement opposing claim of workman. As per 2nd party, workman was engaged o daily wages purely on temporary basis at Sabalgarh branch of the Bank. Workman worked for 97 days during period 8-5-92 to 31-3-93, 88 days in 1995, 6 days in 1996. Ist party workman intermittently worked during above said period. He not completed 240 days continuous service in any of the calendar year. He is not entitled to benefit for regularisation as per the settlement. 2nd party further submits that engagement of workman was on daily wages and contractual in nature. The contract was everytime for one day starting with opening of branch and ending at closing of the branch. He was free not to come on next day. It is reiterated that workman was not engaged after 1996. Bank has recruitment rules. Workman was not appointed following recruitment rules, conciliation process. He has no right to any post by working on daily wages. As per settlement dated 17-11-87, temporary employees working in the bank during 1-7-75 to 31-12-87 having age between 18 to 26 are eligible for appointment in subordinate cadre. The policy was extended till 14-8-91 as per settlement dated 14-7-88. Ist party workman had worked during the period 1-7-75 to 14-8-91. He is not entitled to benefit of settlement working days framed by workman are not disputed. It is denied that workman was working as full time messenger class IV employee. As Ist party was not working during period as per settlement, workman is not

entitled for absorption as per settlement. As per order passed by Hon'ble High Court in Writ petition, workman is not entitled to any benefits. On such ground, 2nd party prays reference be answered in its favour.

4. Workman filed rejoinder reiterating its contentions in statement of claim. The submissions of 2nd party about extended time limit of settlement 14-8-91. Despite of settlement, workman was engaged during the period 8-5-92 to 1996 by management. Clearly shows that those settlement were binding on workman who worked during the period 1-7-75 to 31-12-87. That the action of management terminating services is bad and violative of provisions of ID Act. That he is entitled to be absorbed in regular service as sub staff.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of General Manager (O), State Bank of India, Bhopal in terminating the services of the workman Shri Umesh Tiwari, S/o Shri Bhawani Prasad Tiwari w.e.f. 1996 is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. The term of reference pertains to legality of termination of services of workman in 1996. The term of reference is silent w.r.t. regularisation of services of workman as per the settlement. Pleadings in statement of claim fully devoted for absorption of workman in sub staff, services as per settlement beyond the terms of reference.

7. Workman filed affidavit of his evidence. In his affidavit of evidence, he says that he worked in Sabalgarh branch of the Bank during 1992 to 1996. He worked for 191 days as messenger on daily wages. He was paid wages by cheque, its record is in the Bank. In June96, his services were terminated without notice. There was settlement dated 17-11-87 between Union and management, he claimed ignorance. He was engaged in 1992. After termination of his service, he was not given opportunity to work. In his cross examination, workman says he is graduate, he had given application for job, its copy is not produced, appointment letter is not given to him. Order was issued on same paper, it is not produced on record. He was paid wages by cheque. Documents are not produced in the Court.

8. Witness Kashiram Sharma for workman is also on the point that workman as engaged on daily wages during 1992-93, 93-94. Workman told him his services were terminated without notice in 1996. Evidence of workman and his witness is devoted on the point of termination of services of workman.

9. Documents produced by workman Exhibit W-1 shows workman worked for 74 days during the period 5-5-92 to 31-12-94. Exhibit w-2 shows workman worked for 23 days during 1-1-1993 to 31-4-93. Exhibit w-3 shows workman worked for 6 days in 1996. Evidence of workman and his witness and documentary evidence shows that workman had not worked for 240 days preceding 12 months of his termination in June 96. Workman is not covered under Section 25 B of ID Act. He is not entitled to protection under section 25-F of ID Act. Workman has produced settlement Exhibit W-4 to W-7as per settlement Exhibit W-4 temporary employees working for 240 days after 1-7-75, 270 days in block of 36 months after 1-7-75, 30 days aggregate temporary service after 1-7-75 are eligible for absorption in regular service of the Bank subject to the application submitted and selection by the Committee.

10. As term of reference does not include regularisation of workman claim of workman in his statement of claim for regularisation as per the settlement is beyond terms of reference and cannot be allowed.

11. From evidence discussed above, workman failed to establish that he completed 240 days continuous service preceding 12 months of his termination in 96. Termination of service of workman cannot be said in violation of section 25-F of ID Act.

12. Learned counsel for workman Shri R.K.Soni relies on ratio held in case of Tapash Kumar Paul versus BSNL 2014-15-SCC-313, Sanjay Kumar versus Chief Executive Officer, Janpat Panchayat, Ratlam reported in 2010-MPLJ457. The ratio held in both the cases cannot be applied to case at hand as workman failed to establish 240 days continuous service during preceding 12 months of his termination. For reasons discussed above, I record my finding in point No.1 in Affirmative.

13. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1259.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 512/2004) आईटी सी सं. 63/2002 को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-17012/1/2002-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O.1259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.512/2004) ITC No. 63/2002 of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the the management of the LIC of India and their workman received by the Central Government on 17/06/2016.

[No. L-17012/1/2002-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 4th January, 2016

Reference: (CGITA) No-512/2004

Reference: (I.T.C) No. 63/2002

The Sr. Divisional Manager,
LIC of India,
Divisional office, Jeevan Prakash, Tilak Road,
Ahmedabad (Gujarat)-380001

...First Party

Vs.

Their Workman
Sh. Suryakant B. Chikhle,
Indira Nagar Vasahat,
Near Lambha Village,
Room No. 1093,
Ahmedabad(Gujarat)- 380016

...Second Party

For the First Party : Sh. K.V. Gadhia, Advocate
For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 17012/1/2002 (IR(B-II) dated 12.08.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Sr. Divisional Manager, LIC of India, Divisional Office, Ahmedabad in giving punishment of ‘Dismissal’ from Shri Suryakant B. Chikhle, Peon is legal, justified and proportionate to the fault? If not, then what relief the concerned workman is entitled and from which date?”

2. This reference dates back to 12.08.2002. Both the parties appeared in the proceeding. Second party filed their statement of claim (Ext. 7) first party filed written statement (Ext.8). But both the parties have been absent since last several dates. Thus, it appears that both parties are not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the parties.

The reference is dismissed in default of the parties

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1260.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1441/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/15/2004-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O.1260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.1441/2004) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the the management of the Syndicate Bank and their workman received by the Central Government on 17/06/2016.

[No. L-12012/15/2004-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 1st February, 2016

Reference: (CGITA) No-1441/2004

1. The Regional Manager,
Syndicate Bank,
Neptune Towers, Opp. Nehru Bridge,
Ashram Road,
Ahmedabad (Gujarat)-380009 ...First Party

Vs.

Their Workman
Sh. Vashram Desai,
Beside Veghjibhai Bungalow,
Behind Manav Mandir,
Drive In Road,
Memnagar
Ahmedabad (Gujarat) ...Second Party

For the First Party : Sh. P.S. Chari, Advocate
For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 12012/15/2004-IR(B-II) dated 18.08.2004 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether it is fact that Shri Vashram R. Desai was engaged to drive the vehicle of management of Syndicate Bank during the period from February, 1992 to 1.11.2001 and whether the action of the Regional Manager, Syndicate Bank, Ahmedabad to terminate/ discontinue him from service is justified and legal? If not justified, what relief is the disputant entitled to?”

3. This reference dates back to 18.08.2004. Both the parties were served. On behalf of the first party (Syndicate Bank) Advocate P.S. Chari filed his Vakalatnama (Ext.4) but second party does not filed the statement of claim. Today on 01.02.2016 advocate for the first party present but none respond for the second party. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1261.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1034 /2004) आईटीसी 3 /1997 को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/259/95-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.1034/2004) ITC No. 3/1997 of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of the Punjab National Bank and their workman received by the Central Government on 17/06/2016.

[No. L-12012/259/95-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 4th January, 2016

Reference: (CGITA) No- 1034/2004

Reference: (I.T.C) No- 3/1997

The Regional Manager,
Punjab National Bank,
Dalamal House,
Narian Point,
Mumbai

...First Party

Vs.

Their Workman

Sh. Nilesh U. Vaidhya, Opp. Vorasat No. Dehlo,

Nagar Chakla,

Bhuj

For the First Party :

For the Second Party :

...Second Party

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/259/95(IR(B-II) dated 31.12.1996 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Punjab National Bank, Dhrangadra/Rajkot/ Bombay in dismissing Sh. Nilesh V Vaidhya, Clerk/Typist from services w.e.f. 28.01.1993 is legal and justified? If not, to what relief the said workman is entitled?”

2. This reference dates back to 31.12.1996. Both the parties appeared in the proceedings. Second party submitted statement of claim (Ext.4), first party also filed the written statement (Ext.11). But both the parties have been absent since last several dates for leading evidence. Thus, it appears that both parties are not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the parties.

The reference is dismissed in default of the parties

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1262.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय देना बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 57/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12011/118/2006-आईआर (बी- II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O.1262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.57/2007) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the the management of the Dena Bank and their workman received by the Central Government on 17/06/2016.

[No. L-12011/118/2006-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 17th February,2016

Reference: (CGITA) No-57/2007

1. The Regional Manager,
Regional Office,
Shriram Complex, 2nd Floor,
Radhanpur cross Road,
Mehsana (Gujarat)-384002

...First Party

Vs.

Their Workman
Through the General secretary,
Shramjeevi General workers Union,
Shram Ghar,
Near Railway overbridge,
Palanpur (Banaskantha)
Palanpur (B.K.)- 385001

...Second Party

For the First Party : Shri Janak R. Pandya, Advocate
For the Second Party : C/o. P.R.K.P.

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 12011/118/2006-IR (B-II) dated 01.05.2007 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management/ Assistant General Manager, Den Bank, Mehsana Branch, Gujarat in awarding the punishment of stoppage of two increments with cumulative effect as if he has never crossed basic ay of Rs. 6400/- to Mr. H.S Meena, Cashier-cum-Clerk is legal and justified? If not, what relief the workman concerned is entitled to?”

2. This reference dates back to 01.05.2007.both the parties appeared and filed the Vakalatnama (Ext.6 and Ext. 9) respectively of their advocates. Second party did not file the statement of claim. Despite the fact that second party did not prefer to submit statement of claim, first party Dena Bank filed written statement on 25.01.2010. Since then first party advocate is appearing but second party has been absent since the filing of the Vakalatnama of his advocate on 19.09.2009. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1263.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 850/2004) आईटीसी सं. 24/2004 को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12011/45/2003-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1263.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.850/2004) ITC No. 24/2004 of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the the management of the Bank of Baroda and their workman received by the Central Government on 17/06/2016.

[No. L-12011/45/2003-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 18th December, 2015

Reference: (CGITA) No-850/2004

Reference: (ITC) No-24/2004

The General Manager,
Bank of Baroda,
Priority Sector, RRBs & AB Deptt., Central Office,
17th Floor, New Stock Exchange Buld.,
DALal Street,
Mumbai
The Chairman
Valsad(Gujarat)

...First Party

Vs.

Their Workmen,
 Through the General Secretary,
 Valsad Dangs Gramin Bank Employees Asson.,
 C/o. Valsad Dangs Gramin Bank H.O. Chipward,
 Valsad (Gujarat)-396001

...Second Party

For the First Party : Sh. Mahesh K. Thakar, Advocate
 For the Second Party : Sh. H.D. Kathrotia, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/45/2003-IR(B-I) dated 05.04.2004 referred the dispute for adjudication to the Industrial Tribunal, Baroda (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“1. Whether the action of the management of Valsad Dangs Gramin Bank, Head Office, Valsad in revising other allowances from 06.11.2001 instead of 01.04.2000 is proper and justified? If not, what relief the workmen are entitled for?”

2. “Whether the demand of the Valsad Dangs Gramin Bank Employees Association Valsad in demanding advance increment for computerization is proper and justified? If so, what relief the workmen are entitled for?”

2. Reference dates back to 05.04.2004. First party and second party were represented by Dr. Mahesh K. Thakkar and Hitesh G. Kathrotia respectively. But neither of the parties filed their statement of claim and written statement. Second party has also been absent since last several dates and first party have also been absent since last several dates. Thus, it appears that both parties are not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the parties.

The reference is dismissed in default of the parties.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1264.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार युनियन बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1248/2004) आईटीसी सं. 9/2004 को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12025/5/2004-आईआर (बी-II)]
 रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O.1264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.1248/2004) ITC No. 9/2004 of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the the management of the Union Bank of India and their workman received by the Central Government on 17/06/2016.

[No. L-12025/5/2004-IR(B-II)]
 RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
 Presiding Officer, CGIT cum Labour Court,
 Ahmedabad,
 Dated 15th March, 2016

Reference: (CGITA) No-1248/2004

Reference: (ITC) No- 9/2004

3. The Regional Manager,
Union Bank of India,
Dr. Yagnik Road, 1st Floor,
Radia Building,
P.B. No. 92, Rajkot ...First Party

Vs.

Their Workman
The Vice President,
Gujarat Bank workers Union,
Rahbhar, 8, Jagnath Plot,
Raikot-360001 ...Second Party

For the First Party : -
For the Second Party : Shri Yogen Pandya, Advocate

AWARD

The Government of India/Ministry of Labour ,New Delhi by reference adjudication Order No. L- 12025/5/2004-IR(B-II) dated 31.03.2004 referred the dispute for adjudication to the Industrial Tribunal, Raikot(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Union Bank of India in denying the claim of Shri P.A. Palan to treat his service as a continuous one from the date of his initial entry in service i.e. 6th June, 1969 and for fixation of his pay accordingly is legal and justified? If not, what relief the workman concerned is entitled to?”

4. This reference dates back to 31.03.2004. Both the parties were served. Second Party Gujarat Bank workers Union filed the vakalatpatra (Ext.4) on 06.02.2009. But they did not file the statement of claim since then. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1265.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनाइटेड बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 8/2004) आई टी सी सं. 6/1992 को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12011/69/91-आईआर (बी-II)]
रवि कमार. डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 8/2004) ITC No. 6/1992 of the Central Government Industrial Tribunal-Cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the the management of the United Bank of India and their workman received by the Central Government on 17/06/2016.

[No. L-12011/69/91-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 16th March, 2016

Reference: (CGITA) No-8/2004Reference: (ITC) No -6/1992

1. The Regional Manager,
United Bank of India,
25, Sir P.M. Road,
Mumbai-400001.

...First Party

Vs.

Their Workman,
Through the Regional Secretary,
United Bank of India Shramik Karmachari Samiti,
D-203, Aswalekha Complex,
Besides Desai Park Society,
Vastrapur Railway Station road,
Ahmedabad-51

...Second Party

For the First Party :
For the Second Party : C/o. United Bank of India Shramik Karmachari Samiti,

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/69/91-IR(B-II) dated 02.04.1992 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the United bank of India Karmachari Shramik Samiti for parity with the majority union in the matter of periodicity of negotiations and reimbursement of TA/DA for equal number of office bearers for negotiations with the management is justified? If so, what relief the union is entitled to?”

2. This reference dates back to 03.04.1992. Second party submitted statement of claim (Ext.3) on 08.07.1992 and first party submitted written statement (Ext.7) on 01.02.1993 since then second party has not been leading evidence. Thus, it appears that second party is not willing to proceed with the reference as they have been absent since last several dates. Thus Tribunal has no option but to dismiss the reference in default of the second party.

This reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1266.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बडोदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 23/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12011/26/99-आईआर (बी- II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O.1266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2005) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of the Bank of Baroda and their workman received by the Central Government on 17/06/2016.

[No. L-12011/26/99-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 15th February, 2016

Reference: (CGITA) No. 23/2005

Bank of Baroda,
The Regional Manager,
BOB, Vadodara District, Region,
DSUraj Plaza-III,
5th Floor, Sayajigunj,
Baroda-390001

...First Party

Vs.

Their Workman
Smt. Ramanbhaben G. Mali,
Through the Asstt. Secretary,
Gujarat Bank Workers Union,
'Usha Kiran' Raopura,
Vadodara (Gujarat)- 390001

...Second Party

For the First Party : Shri Mahesh Thaker, Advocate
For the Second Party : Kum. Heenaben Desai, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/26/99-IR(B-II) dated 16.06.2000 referred the dispute for adjudication to the Industrial Tribunal, Baroda (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management in not taking cognizance of the provisions of Clause 7.4 read with Clause 7.2 (a) of the settlement dated 18.4.1984 in case of Mr. B.C. Shah, Cashier, Khanderao Market Branch who has been offered the post of ‘Assistant Head Cashier’ at Pratapnagar Branch on 29.6.99 but he did not accept the offer in the prescribing manner (proforma ‘B’) is proper and justified? If not, what relief the affected workmen are entitled to?”

“Whether there is any breach of the terms of the settlement dated 18.4.1984 in the case of Mr. B.C. Shah, Cashier who has not submitted the acceptance letter to the management as per terms of settlement and in accordance with the rules, regulations and practice of the management?”

2. This reference dates back to 16.06.2000. Second party filed statement of claim (Ext.5) on 19.04.2001. First party also filed written statement (Ext.7) on 03.08.2001. Thereafter second party did not give the evidence despite giving number of opportunities. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1267.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कानड़ा पतन न्यास के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 124/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-37012/1/2009—आईआर (बी- II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1267.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.124/2010) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of the Kandla Port Trust and their workman received by the Central Government on 17/06/2016.

[No. L-37012/1/2009-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 2nd February, 2016

Reference: (CGITA) No. 124/2010

The Chairman,
Kandla Port Trust,
P.O. Box No. 50.
Gandhidham (Kutch)

...First Party

Vs.

Their Workman
Sh. Bhanji J. Maheshwari,
Through the General Secretary,
Transport & Dock workers Union, Kandla,
21, Yogesh Building, Plot No. 586,
12-C, Gandhidham,
Kutch-370201

...Second Party

For the First Party : Sh. K.V. Gadhia, Advocate
For the Second Party : Sh. N.H. Rathod, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37012/1/2009-IR(B-II) dated 18.09.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Chairman, Kandla Port Trust, Gandhidham, Kutch in dismissing the services of their workman Shri Bhanjibhai J. Maheshwari, Casual worker w.e.f. 27/2/2006 is legal and justified ? What relief the workman concerned is entitled to?”

2. This reference dates back to 18.09.2009. Both the parties were served but neither of the parties submitted their statement of claim or written statement, as the case may be. It is noteworthy the second party has not responding since the initiation of the proceeding of the present reference.

3. Today, on 02.02.2016 the advocate for the first party, Shri Yogi Gadlia, moved an application (Ext.5) stating that in the same cause of action reference CGITA No. 125/2010 is also pending. In other words, the present matter reference CGITA No. 124/2010 is duplicate of reference CGITA no. 125/2010. He has, therefore, requested to the Tribunal to finally disposed of the present reference CGITA No. 124/2010 by way of dismissal being the duplicate of reference CGITA No. 125/2010.

4. I perused the records of both the references, application has force and fit to be allowed. Thus, the reference CGITA No. 124/2010 is dismissed.

Order is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1268.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 878/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/165/2000-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O.1268.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.878/2004) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of the Union Bank of India and their workman received by the Central Government on 17/06/2016.

[No. L-12012/165/2000-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 4th January, 2016

Reference: (CGITA) No. 878/2004

Union Bank of India,
The Zonal Manager,
UBI, Zonal Office,
West Zone Div. 1, Premchand House,
172/1 Ashram Road,
Ahmedabad (Gujarat)-380009

...First Party

Vs.

Their Workman
Sh. Manubhai A. Rathod, At & post Akwada,
Bhavnagar (Gujarat)-392001

...Second Party

For the First Party :
For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/165/2000-IR(B-II) dated 14.02.2001 referred the dispute for adjudication to the Industrial Tribunal, Bhavnagar (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Union Bank of India, Zonal Office, Ahmedabad in denying engagement of Shri Manubhai A. Rathod who was placed in the panel No. 35 at sr. No. 3 is legal and justified? If not then what relief the concerned workman is entitled to and from which date?”

2. This reference dates back to 14.02.2001. Second party filed the statement of claim (Ext. 6) first party also filed their written statement (Ext.10). Despite the both the parties have been absent since last several dates giving impression that they are not willing or interested in the proceeding.

3. The reference is very old. Seeing the conduct of the party the Tribunal has no option but to dismiss the reference in default of the parties.

The reference is dismissed in default of the parties.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1269.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बडोदा के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 176/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/60/2006-आईआर (बी- II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.176/2006) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the the management of the Bank of Baroda and their workman received by the Central Government on 17/06/2016.

[No. L-12012/60/2006-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present....

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad.

Dated 18th January, 2016

Reference: (CGITA) No. 176/2006

1. The Asst. Gen. Manager,
Bank of Baroda,
Bulsar Region, Mahalaxmi Apartments,
Post Box No. 86, Tithal Road,
Bulsar-396001

...First Party

Vs.

Their Workman
Sh. Gunawant Bachubhai Patel,
Binanagar Road, Abrama,
Tal.. Dist Valsad,
(Gujarat)- 396002

...Second Party

For the First Party : Sh. K.V. Gadhia, Advocate
For the Second Party :

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/2006-IR(B-II) dated 15.09.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Bank of Baroda in terminating the services of Sh. Gunwant Bachhubhai Patel, Ex-Driver w.e.f. 2.7.2005 is legal, proper and just? If not, to what relief the concerned workman is entitled?”

2. This reference dates back to 15.09.2006. Both the parties appeared in the reference. Second party submitted statement of claim (Ext.6) on 26.07.2007 and first party filed written statement (Ext.9) on 03.02.2009. They also filed copies of the documents but despite giving number of opportunities to first party lead evidence, he did not prefer to lead evidence. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1270.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 488/2004) आई टी सी 38/2002 को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-12012/215/2001-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.488/2004) ITC 38/2002 of the Central Government Industrial Tribunal-Cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of the Punjab National Bank and their workman received by the Central Government on 17/06/2016.

[No. L-12012/215/2001-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th March, 2016

Reference: (CGITA) No. 488/2004
Reference (ITC) No. 38/2002

1. Punjab National Bank,
The Regional Manager,
Navrangpura,
Ahmedabad (Gujarat) -380009

...First Party

Vs.

Their Workman,
Mrs. Kalpana M. Shah,
18, Dhaval Society No. 2,
Navrangpura,
Ahmedabad (Gujarat)-380009

...Second Party

For the First Party : Shri Kamlesh Pujara, Advocate
For the Second Party : Shri K.V. Gadlia, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/215/2001-IR(B-II) dated 23.04.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Punjab National Bank in terminating the services of Smt. Kalpanaben M. Shah by way of “compulsory Retire” vide order dated 19.12.2000 is legal, proper and justified? If not, what relief the concerned workman is entitled to and what other directions are necessary in the matter?”

2. The second party Mrs. Kalpana M. Shah in her statement of claim (Ext.3) has stated that she joined first party, Punjab National Bank, Navrangpura, Ahmedabad on 02.04.1979 as clerk-cum-Typist and had been performing her duties faithfully and diligently. Her service record was clean and spotless and she was never served with any show cause notice or warning. While serving at Navrangpura Branch of the first party she detected the fraud in the bank’s record committed by Assistant Manager Shailesh Jani who was the office bearer of the Bank’s Officers Association. Shailesh Jani and Branch Manager Vinod Dixit also Secretary of the Officers Association started harassing her. Both the officers denied her MTP leave also denied the disbursement of salary and deduction of provident fund since May-1993 despite repeated request. She drew a cheque against her salary account, same was returned without informing her. They also used to make adverse and abusive comments against her which used to cause her embarrassment in daily working. She made complaints and representations to the Chairman and Managing Director of the first party Bank vide letters dated 23.09.1994 with copies of the said letters to the concerned authorities and parties but Shailesh Jani and Vinod Dixit did not mend their conduct. The said conduct and harassment by the said officers caused her mental illness and she was also forced to leave the job.

3. She further alleged that while working at Navrangpura branch she was assigned the work of talling the accounts/ledgers wherein she detected that balances were untallied and wrong reports were made by the aforesaid officers of the branch to the Regional Office. These detection of fraud in the accounts led into annoyance to the aforesaid officer Shailesh Jani and Vinod Dixit who started harassing her as said above. Management also did not care to reply her aforesaid representation dated 23.05.1994 and 23.09.1994 and instead issued her charge sheet on 15.02.2000 for long absence from duty. She replied the charge sheet on 22.09.2000 stating inter alia that she was very much interested to join the duty being the source of bread and butter of her family but first party bank without caring reply started department enquiry.

4. She further alleged that she was called by the management on 24.11.2000 where the enquiry officer threatened and forced her to admit the charges with a promise to give benefit of voluntary retirement scheme. The enquiry officer, D. Vasudevan who was male forcibly obtained her signature at the margin of the charge sheet instead of obtaining at the bottom of the charge sheet to believe that she really admitted the charges. Later, without her knowledge she was awarded punishment on the basis of the hand written note of the enquiry officer D. Vasudevan without recording the evidence of either of the parties showing as if she admitted the charge.

5. She further alleged that while serving with the charge sheet, principles of natural justice were not followed neither by the first party bank nor the enquiry officer because she was not provided any documents which would have been the basis of the charge sheet, no witness was examined in support of the charges levelled in the charge sheet and thirdly she was not given any opportunity to defend her. She was also not provided the copy of the enquiry report while proposing or awarding the punishment. Thus, the enquiry was illegal and against law. Therefore, she has prayed for reinstatement with back wages.

6. First party Punjab National Bank submitted written statement (Ext.7) wherein raised preliminary objection that the service condition of the workman employee in the banking sector are governed by Shastri and Desai awards besides Bipartite settlements. Second party Kalpana M. Shah had been absent from 28.05.1994 to 14.09.2000 for total 2338 days constituting the gross misconduct within the meaning of the provision of the Bipartite settlement. Therefore, disciplinary proceedings were initiated against her. She was advised to appear for personal hearing on 09.12.2000 but she did not appear. Therefore, a punishment of compulsory retirement superannuation benefits was awarded on 19.09.2000.

7. The first party in his written statement on merit admitted all the facts of statement of claim except fraud detected in the ledger of the bank and harassment caused to Kalpana Shah by Shailesh Jani and Vinod Dixit Assistant Manager and Manager of the bank on account of the fraud detected by Kalpana Shah and the written statement is completely silent on these facts narrated in the statement of claim . Written statement is also silent regarding the allegation of Kalpana Shah made against the enquiry officer D. Vasudevan who alleged to have threatened and forcibly obtained the signature of Kalpana Shah at the margin of the charge sheet. Written statement is also silent as to

why the enquiry report which was prepared by printing on computer then what was the necessity to give finding in the hand written note.

8. On perusal of the pleadings following issues arise for passing award by this Tribunal:

- (i) Whether Kalpana M. Shah second party detected fraud in the ledger of the Bank being committed by Shailesh Jani and Vinod Dixit, Assistant Manager and Manager of the Branch of the Bank?
- (ii) Whether Shailesh Jani and Vinod Dixit, Assistant Manager and Manager of the Branch of the Bank harassed and taunted second party Kalpana Shah leading into her mental illness?
- (iii) Whether the principles of natural justice was observed in the department proceedings made against Kalpana M. Shah by enquiry officer, D. Vasudevan?
- (iv) Whether the management of the Punjab National Bank followed the direction of the judgement of the Supreme Court passed in Vishakha Vs. State of Rajasthan, Writ Petition (Criminal) No. 666/1992 judgement dated 13 August, 1997?

9. Second party Kalpana M. Shah filed her affidavit (Ext.12) as examination- in-chief wherein she reiterated the facts narrated in the statement of claim (Ext.3) and in the cross examination she has not stated anything contrary to her in the statement of claim. On behalf of the first party, D. Vasudevan reiterated in his examination-in-chief/affidavit (Ext.25) all the facts narrated in the written statement.

10. **ISSUE NO. I & II:** Whether Kalpana M. Shah second party detected fraud in the ledger of the Bank being committed by Shailesh Jani and Vinod Dixit, Assistant Manager and Manager of the Branch of the Bank? & Whether Shailesh Jani and Vinod Dixit, Assistant Manager and Manager of the Branch of the Bank harassed and taunted second party Kalpana Shah leading into her mental illness?- These issues are inter related, therefore, are decided together.

Second party Kalpana M. Shah in her statement on oath has stated that she joined first party, Punjab National Bank, Navrangpura, Ahmedabad on 02.04.1979 as clerk-cum-Typist and had been performing her duties faithfully and diligently. Her service record was clean and spotless and she was never served with any show cause notice or warning. While serving at Navrangpura Branch of the first party she detected the fraud in the bank's record committed by Assistant Manager Shailesh Jani who was the office bearer of the Bank's Officers Association. Shailesh Jani and Branch Manager Vinod Dixit was also Secretary of the Officers Association started harassing her. Both the officers denied her MTP leave also denied the disbursement of salary and deduction of provident fund since May-1993 despite repeated request. She drew a cheque against her salary account same was returned without informing her. They also used to make adverse comments against her which used to cause her embarrassment in daily working. She made complaints and representation to the Chairman and Managing Director of the first party Bank vide letters dated 23.09.1994 with copies of the said letter to the relevant authority and party but Shailesh Jani and Vinod Dixit did not mend their conduct. The said conduct and harassment by the said officers caused her mental illness and she was forced to leave the job. She further alleged that while working at Navvrangpura branch she was assigned the work of talling the accounts/ledgers wherein she detected that balances were untallied and wrong reports were made by the aforesaid officers of the branch to the Regional Office. These detection in the accounts led into annoyance to the aforesaid officer Shailesh Jani and Vinod Dixit and started harassing her as said above. Management also did not care to reply her aforesaid representation dated 23.09.1994 and 23.05.1999 and instead issued her charge sheet on 15.02.2000 for long absence from duty. She replied the charge sheet on 22.09.2000 stating inter alia that she was very much interested to join the duty being the source of bread and butter of her family but first party bank without caring reply started department enquiry.

11. The aforesaid statement of Kalpana M. Shah has neither been reverted in the written statement nor in the statement of D. Vasudevan the witness examined on behalf of the first party who was also fortunately the enquiry officer in the department proceeding. Law of evidence requires that if any allegation has been levelled by one party against the co-employees then it would have been the duty of Punjab National Bank the first party to rebut the same through examination of those employees who are alleged to be guilty. In this case, Shailesh Jani and Vinod Dixit would have been examined. Thus, it can be said that the allegation of Kalpana M. Shah against aforesaid employees in the matters of fraud committed in the ledger of the Bank and harassment of Kalpana M. Shah by these employees leading into mental ill health and forcing her to proceed to long absence are un-rebutted and true. It is also strange that Kalpana M. Shah made complaints to the higher authorities before the initiation of departmental proceedings that she was harassed by Branch's Assistant Manager and Manager who committed fraud in accounts but higher authorities did not care to inquire those complaints. Thus, these issues are decided in affirmative and in the favour of second party Kalpana M. Shah.

12. **ISSUE NO. III & IV:** Whether the principles of natural justice was observed in the department proceedings made against Kalpana M. Shah by enquiry officer, D. Vasudevan? & Whether the management of the Punjab National Bank followed the direction of the judgement of the Supreme Court passed in Vishakha Vs. State of Rajasthan, Writ Petition (Criminal) No. 666/1992 judgement dated 13 August, 1997? These issues are inter related and therefore, decided together.

The learned counsel for the first party filed the written argument (Ext.34) wherein he has impressed upon that no illegality has been committed in the department proceedings as well as in the punishment awarded. In support of this case, he has submitted two judgment of the Gujarat High Court specifically Keshav Nathu Makwana Vs. General Manager, SCA No. 13473 of 2010 and Subhash Bharti Vs. General Manager Bank of Baroda, LPA No. 259 of 2013 in SCA No. 65 of 2012.

13. Both the parties have filed number of documents which are not under question. Here, I would like to remind the first party as well as his advocate because Kalpana M. Shah second party was served with the charge sheet on 24.11.2000 and on the same day enquiry report was prepared and submitted despite the Apex Court Judgement. Hon'ble Supreme Court of India passed a judgment in Vishakha Vs. State of Rajasthan, Writ Petition (Criminal) No. 666/1992 on 13 August, 1997 (1997 6 SCC 241) wherein Apex Court issued the detailed directions for all the government and no-government bodies for observance in the matters of women workmen/employees. As per the condition/observance of the judgment in the Vishakha case (Supra) Punjab National Bank was required to constitute the enquiry committee consisting of women officers in the matters of harassment of women employees. Punjab National Bank has not denied the allegations of second party Kalpana M. Shah regarding the detection of fraud in the bank ledgers committed by Shailesh Jani and causing harassment to her by Shailesh Jani and branch manager Vinod Dixit. Punjab National Bank has also not denied that Kalpana M. Shah did not make any complaint against those officers to the management of Punjab National Bank. Second, the appointment of D. Vasudevan as enquiry officer was also against the direction of Vishakha case (supra) as all departmental inquiry or proceedings ought to have been made by woman enquiry officer. Thirdly, enquiry report has been prepared in hush because after serving the charge sheet the workman ought to have been given time for her defence and D. Vasudevan and the Presenting Officer P.R. Chauhan must have examined the witnesses for proving the charges. The enquiry report which is one page report confirm the allegation of Kalpana M. Shah that enquiry officer as well as Presenting officer were in hurry to prepared the enquiry report in order to save Shailesh Jani and Vinod Dixit who ought to have been dealt strictly into the allegation by the bank management. Thus, the inquiry report is sham.

14. The direction and observance passed by the Apex Court in the Vishakha case have the force of law and non-observance and defiance the same makes the enquiry vitiated and against the law of the land and also principles of natural justice.

15. The record also reveals that Kalpana M. Shah second party despite being not guilty and also serve bank with honesty, dedication and impeccable integrity became the victim of the decision of the bank management. Kalpana M. Shah in the said circumstances tried to go on voluntary retirement but the management denied the same and forced her to compulsory retirement which is against the violation of Vishakha case because Para 10.19 of PNB Employees Voluntary Retirement Scheme, 2000 provides as under:

“An employee who opts for voluntary retirement under this scheme but against whom the disciplinary proceedings are contemplated, their case shall be considered by the respective Disciplinary Authorities having regard to the facts of each case before forwarding the request of such an employee to the Competent Authority. In case the Disciplinary Authority decides that the request of such an employee for voluntary retirement be not accepted, the same shall be communicated to the employee in writing and he shall have a right to make and appeal to the committee of Two General Managers to be constituted by the Chairman & Managing Directors for the purpose. The decision of such committee shall be communicated to the employee in writing and their decision in this regard shall be final.”

Under the said provision, the Chairman and Managing Director of the Punjab National Bank was under a duty to constitute a committee of General Manager to enquire and give report as to why Kalpana M. Shah was not entitled for Voluntary Retirement Scheme.

Thus, the Issue No. III and IV are decided in affirmative and in favour of the Kalpana M. Shah second party.

16. The record and evidence reveals that this is a case wherein Shailesh Jani, Assistant Manager and Vinod Dixit, Branch Manager of the questioned branch of the bank as well as enquiry officer D. Vasudevan and Regional Manager were involved in the conspiracy to teach lesson to Kalpana M. Shah for a work wherein Kalpana M. Shah would have been rewarded for good work, dedication and integrity and Shailesh Jani, Assistant Manager and Vinod Dixit, Branch Manager of the questioned branch of the bank ought to have been subjected to departmental proceeding and be also

punished. This is also disgusting that the then Chairman and Managing Director of the Punjab National Bank were sleeping into a case of harassment of a woman workman.

17. In the light of the aforesaid discussion, I come to the conclusion that Kalpana M. Shah be reinstated with back wages and all the service benefits within 30 days from the publication of the award by the Government of India. I also come to the conclusion that the amount likely to be paid to Kalpana M. Shah by way of back wages and service benefits must be recovered from the salary of Shailesh Jani, Assistant Manager and Vinod Dixit, Branch Manager of the questioned branch of the bank and enquiry officer D. Vasudevan and also from the salary of the then Regional Manager and also the appellate authority of the Punjab National Bank.

This is my award to be complied with as said above.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ.1271.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 02/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17/06/2016 को प्राप्त हुआ था।

[सं. एल-39025/1/2010-आईआर (बी-II)]
रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.02/2011) of the Central Government Industrial Tribunal Cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the the management of the Indian Bank and their workman received by the Central Government on 17/06/2016.

[No. L-39025/1/2010-IR (B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present...

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 26th April, 2016

I.D. Application No. 02/2011

Makwana Ramanbhai Valjibhai,
C/37/553, Krushna Nagar, GHB Society,
Naroda Road, Ahmedabad -46

...Applicant

Vs.

The Assst General Manager /
Disciplinary Authority,
Indian Bank, Circle Office,
Ahmedabad.

...Opponent

For the applicant : Sh. Mishra with Mr. Sisodiya

For the Opponent : Sh. K.V. Gadhia, Advocate

AWARD

1. The applicant raised the dispute before the Conciliation Officer at Ahmedabad *vide* No. ALC/ADI/07(125)/2010 over alleged illegal compulsory retirement and reinstatement in service. The Conciliation Officer issued hearing notice on 21.12.2010 and fixed the matter for conciliation on 07.01.2011. The Opponent Bank appeared and filed its reply before Conciliation Officer on 16.02.2011. Subsequently the applicant herein has filed the present application on 23.03.2011 under Amended Section 2A(2) and the same was registered as I.D. Application No. 02/2011.

2. The applicant *vide* Exh.-1 application dated 23/03/2011 stated that he was appointed by the Opponent Bank at Mehsana Branch as a peon in the year 1981 and was confirmed after six months from the date of appointment. It is further stated that in March 2009 he was performing his duties as a peon at Indian Bank, S.G. Road, and lastly he served at Paldi Branch, Ahmedabad and his salary was Rs. 14,900/- per month. It is further stated in the application that he was issued the charge sheet dtd. 06.03.2009 by the Management. The applicant has given his explanation to all the charges in the application. Against the said charge sheet a departmental inquiry was initiated on various dates from 27.03.2009 to 02.05.2009. On conclusion the Presenting Officer gave his comments and the defense representative also submitted his comments on 03.06.2009. The Inquiry Officer gave his findings on 30.06.2009 *inter alia* holding that all the charges were proved. The applicant submitted his comments against the report of the inquiry officer on 07.08.2009. The second show cause notice was given to the applicant on 31.10.2009 which was replied to by the applicant on 18.11.2009 and he also remained present for personal hearing on 21.11.2009. The Disciplinary Authority imposed the punishment *vide* order dtd. 05.12.2009. The applicant subsequently preferred a departmental appeal against the said order on 02.02.2010. The Appellate Authority modified and reduced the punishment from removal of service to compulsory retirement. The applicant has further stated in the application that the inquiry was not conducted by following the principles of natural justice and he was having clean and blotless record. The applicant has further stated that the charges leveled against him were not so serious so as to impose the punishment of compulsory retirement and therefore prayed for quashing and setting aside the order dtd. 05.12.2009 and 30.09.2010 passed by the Disciplinary Authority and Appellate Authority as well. The applicant also submitted three documents viz. copy of letter written to the Assistant Labour Commissioner, Copy of notice issued by ALC and Copy of reply filed by Bank before ALC *vide* D-list at Exh.-2.

3. The hearing notices were issued to the parties in the matter and the Opponent Bank appeared through its advocate Mr. K.V. Gadodia who filed his appearance on 15.07.2011 *vide* Exh. 6. Subsequently, the Opponent Bank filed its written statement *vide* Exh 7 on 13.09.2011 *inter alia* denying the contentions raised in the Exh.-1 application. The Bank further narrated the true facts at para-14 of the written statement. In nutshell the Bank stated that the applicant was working as sub-staff and for his misbehavior, disobedience and irregularities he was issued with show cause notice dtd. 08.04.2008 and 04.10.2008 which were replied by the applicant on 26.04.2008 and 17.07.2008 respectively. Since the same were not found to be satisfactory, the applicant was issued with charge sheet dtd. 06.03.2009. The said charges in brief are as under:-

- a) He did not attend the branch, nor tendered the leave application on 03.03.08. Even after resuming on 04.03.08. He did not submit the application and replied vaguely.
- b) Again he remained unauthorized absent from 07.03.08 to 13.3.08, and upon enquiry by the Branch management, on him resuming the duties, he started shouting, misbehaved and again left the branch for 1 and half hours on 14.03.08 without permission. He was also served a Memo for the same to which he has not replied till date.
- c) He was also not sorting the vouchers as per VVR, filing the papers, circulars etc. in time and for that too he was served with the Office Order No. 05, dated: 15.01.08.
- d) He was also not attending the work related to cash department work for which he was issued an Office Order no. 07 dated: 07.02.08.
- e) He had also taken a bribe of Rs. 100/- from Mr. G.H. Barot, Senior Advocate and customer of the Branch for getting lien registered with the Postal Authorities for his NSC Loan.
- f) He had conveyed telephonically that he will get late on 07.04.08 so the Branch had made an alternative arrangement for collecting the cheques of inward clearing from the service branch. On reaching there, said person got to know that he had already sent an unauthorized person to collect the same without informing the branch management. On inquiring about the same, you started shouting, misbehaving and threatening the Asst. branch Manager and Branch Manager. He did not accept the Memo either and that's why the matter was reported to the Circle Office. Mr. B.C. Surti, Chief Manager visited branch and submitted his report on 06.05.08 wherein he confirmed your misbehavior on the said date.

- g) He had availed leave on 13.05.08 for which he had not submitted application and that's why on 13.08.08 the Management served a letter to him to submit the leave applications for leaves availed by him from Jan-2008 but he failed to do so too.
- h) He had availed leaves on 13.05.08 and 29.05.08 but submitted leave application on 30.05.08 only and that too for the leave availed on 29.05.08 only. Yet he tampered the Bank record by overwriting by putting his initials in the respective date columns to show he was present on the said dates.

The Bank further stated that in the inquiry proceedings, the applicant was provided fullest opportunity to defend himself. He appeared alongwith his defense representative Shri Manubhai M. Parmar. He was provided with the findings of the inquiry officer on 23.07.2009 and the applicant submitted his reply to the same on 07.08.2009. He was also given personal hearing before passing the punishment order and the Disciplinary Authority has passed the reasoned and speaking punishment order dtd. 05.12.2009 whereby a punishment of "Removal from Services" and other punishments were imposed. The appellate authority in appeal filed by the applicant modified the punishment by taking lenient view and imposed a single punishment of "Compulsory Retirement with superannuation benefits". The Bank has further stated that the punishment is within the four corners of bipartite settlement governing the Award staff employees and the same is imposed after affording fullest opportunities in compliance of principles of natural justice. On such grounds, the Bank prayed for rejection of the case.

4. The Bank has vide D list at Exh.- 9 produced as many as 19 documents related to inquiry proceedings right from show cause notice till order of the appellate authority etc. The applicant has submitted an affidavit in lieu of Chief Examination vide Exh-10 and the applicant was cross examined by the Ld. Advocate for the Bank. The applicant has submitted a pursis dtd. 25.04.2012 and thereby admitted the legality and validity of the inquiry proceedings. The Bank has also produced three other documents vide D list on 19.06.2014 viz. copy of PF Receipt dtd. 17.03.2011 of Rs. 3,19,153/-, Copy of receipt of Gratuity dtd. 17.03.2011 of Rs. 1,33,031/- and Copy of receipt of arrears of Gratuity dtd. 12.08.11 of Rs. 66,319.

5. Considering the pleadings and submissions of the rival parties, the following issues arise for my consideration and adjudication.

- I. Whether the applicant is entitled to get reinstatement with continuity in service and full back wages as prayed for?
- II. What order?

Findings

6. Issue No. I

- 6.1 On behalf of the Applicant workman it is argued that the workman working with the Opponent bank since 1981 and served with Bank for about 29 years and he was served the charges sheet on 06.03.2009 for the alleged incident. It is further argued that the applicant workman has not committed any misbehavior or misconduct as enumerated in the charge sheet. It is argued that the charges leveled against the workman were not proved and findings of the inquiry officer are against the materials placed in the inquiry and inquiry was not conducted by following the principles of natural justice. He has argued that looking to the past clean and blotless service and the applicant having not committed any misconduct as enumerated in the charge sheet, the punishment inflicted by the Bank Management is to be quashed and set aside and the applicant is required to be reinstated with full back wages. Alternatively he has submitted that looking to the charges leveled against him, punishment is very harsh. The charges are not very in grave in nature and he has requested to modify the punishment on.
- 6.2 Against that on behalf of the Opponent Bank Management, Ld. Advocate of the Bank has argued that the applicant workman has committed gross misconducts which include taking bribes, misbehavior, absenteeism etc. and charges leveled against the workman are proved and after affording fullest opportunity to meet with each charge to the workman. Since the charges leveled against the workman were proved, the disciplinary authority imposed different penalty for each charge including Removal from service. Against that the applicant workman has filed the Appeal before Appellate Authority and the Appellate Authority has observed that the charges leveled against the workman were proved. Yet the Appellate Authority took lenient view and modified the punishment order as a single punishment order for all charges as "Compulsory retirement with superannuation benefits" in terms of Clause 6(C) of memorandum of Settlement dtd. 10.04.2002. The Bank on these grounds prayed for rejection of the application.
- 6.3 The applicant workman has filed a pursis dtd: - 25/04/2012 admitting the legality and validity of the procedure of the inquiry. In that view, on behalf of the management it is submitted that the Hon'ble Tribunal cannot interfere with the punishment as it is as per the settled law prerogative of management. In

support of this the management side has relied upon the judgments of UP State Road Transportation Vs. Vinodkumar reported in 2008 LLR 121 and in case of Employers Management West Bokaro colliery of TISCO Ltd. Vs. Concerned workmen, Rampravesh Singh. Reported in 2008 LLR 432. In the aforesaid two judgments the Hon'ble Apex Court has held that in absence of challenge to the legality & fairness of the domestic inquiry the court should be reluctant to either interfere with the findings of the inquiry officer or the punishment awarded by the punishing authority and confirmed the order passed by the punishing authority dismissing the workman. In the present case also as stated hereinabove the applicant workman has admitted the legality and validity of the inquiry and as per the ratio laid down in the aforesaid two cases of Apex Court this Tribunal cannot interfere with the punishment imposed by the concerned Authority.

- 6.4 I have perused the documents submitted by the Bank management vide Exh.-9 and D-list dated 19/06/2014 as well as pleadings of the parties. It is established that the charges leveled against the workman are proved and the charges are also in grave in nature and looking to the charges punishment imposed upon the workman is just, legal and proper and does not require any interference. The punishment imposed upon the workman is just, legal and proper and does not require any interference by this Tribunal. If we look to the charge sheet Eight charges are leveled against him. First charge is regarding remained absent without prior permission. Second charge is for absenteeism and also shouting in the bank and spoiling the atmosphere of the bank. Third charge is regarding negligence of day to day work and also issued earlier memo to that effect. Forth Charge is regarding the applicant denying to perform normal duties in Cash Department. In other words, charge of disobedience of legal orders. Fifth charge is very grave and serious nature in taking bribe from the customer. Sixth charge includes several misconduct indulged in bank routine work. He sent outsider for the collection of cheques. For that an effort was made to issue memo but he has refused and threatened the ABM & BM. Seventh Charge is regarding remaining absent without leave and even not care to submit the explanation though asked by the Branch Management. Eight charge is regarding tampering with bank register with the ulterior motive that he remained present on particular date, though he was absent on the said date.
- 6.5 During the inquiry proceedings all the charges are proved. All these charges regarding taking bribe, rude behaviors with the officers, threatening the officers, tampering with the bank records, absenteeism, insubordination etc. show that the charges are very grave and serious in nature. The concerned workman has in personal hearing before the Disciplinary Authority on 21.02.2009 regretted for incidents and requested to forgive him and prayed for one more chance to improve himself and assured that he will sincerely perform his duties. Moreover the applicant by his deed as well as above letter admitted the guilt. The Disciplinary Authority inflicted different punishments for each charge including removal of service. Though the Appellate Authority in appeal has taken lenient view and imposed a single punishment of Compulsory Retirement with Superannuation benefit. Therefore also even in merits the applicant workman is not entitled to get any relief as prayed for and hence the application merits rejection.
- 6.6 So the punishment imposed upon the workman is not required to be interfered as the Bank management has already taken judicious view and the workman has been paid all the retiral dues and the proof thereof is produced by the Bank vide D-list dtd; - 19/06/2014. The same proves that the punishment order passed by the Bank is implemented. The workman has taken the retiral dues without any protest and accepted the same happily. By this way the punishment order passed by the Bank Management is implemented by the applicant by his action and hence the present matter does not survive. Therefore on this ground also the interference of the Tribunal is not required in the punishment order passed by the Management.

7. Considering the aforesaid facts the applicant workman is not entitled to get any relief as prayed for and application is not maintainable and the applicant workman has no valid cause of action to raise the dispute.

Accordingly, the I.D. Application is rejected with no order as to cost.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ. 1272.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ऑवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 33/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.06.2016 को प्राप्त हुआ था।

[सं. एल-12012/91/2007-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of M/s. Indian Overseas Bank and their workmen, received by the Central Government on 16.06.2016.

[No. L-12012/91/2007-IR (B-II)]

RAVI KUMAR, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

सी.जी.आई.टी. प्रकरण सं. 33/2009

भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. L-12012/91/2007-IR (B-II) दिनांक 05/12/2007

Shri Virendra Singh Shekhawat
S/o Shri Dilip Singh Shekhawat,
R/o B-15, Bandhu Nagar, Jai Chamunda Colony,
Sikar Road, Jaipur

v/s

1. Chief Manager,
Indian Overseas Bank,
M.I. Road,
Jaipur. (Rajasthan)

प्रार्थी की तरफ से : श्री भवनी सिंह भाटी – प्रतिनिधि

आप्रार्थी की तरफ से : श्री अन्कुर सर्केना – एडवोकेट

पंचाट

दिनांक : 30. 09. 2015

- केन्द्रीय सरकार द्वारा ऑद्योगिक विवाद अधिनियम 1947 की धारा 10 की उपधारा 1 खण्ड (घ) के अन्तर्गत दिनांक 05.12.2007 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णय हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :—
- “Whether claimant Shri Virendra Singh Shekhawat was engaged as Driver by the management of Indian Overseas Bank through Chief Manager, M.I. Road Branch, Jaipur from 15.11.1999 and thereafter interviewed by the bank management for regular post of driver and again he was kept on regular basis up to 07.11.2006? If yes, whether his discontinuation from 07.11.2006 from the post of Driver is legal and justified, If not what relief he is entitled to?”
- स्टेटमेन्ट ऑफ क्लेम में दिये गये तथ्यों के अनुसार संक्षिप्तः प्रार्थी श्री विरेन्द्र सिंह शेखावत का कथन है कि उनकी नियुक्ति विपक्षी के संस्थान में दिनांक 5.11.99 को ड्राईवर के पद पर हुई थी। प्रार्थी विपक्षी संस्थान की एम.आई.रोड शाखा में कार्यरत था। प्रार्थी का अन्तिम वेतन 4000 रु. प्रतिमाह था। प्रार्थी के कार्य के सम्बन्ध में विपक्षीगण को कभी कोई शिकायत नहीं रही और प्रार्थी ने ईमानदारी और लगन से अपनी सेवा की थी।

4. स्टेटमेन्ट ऑफ कलेम के प्रस्तर 3 में प्रार्थी ने उल्लेख किया है कि विपक्षी संस्थान द्वारा ड्राईवर के स्थायी पद के लिए दिनांक 15.10.2001 को विज्ञप्ति जारी की गयी थी। रोजगार कार्यालय के माध्यम से ड्राईवर के पद को भरने के लिए रोजगार कार्यालय से नाम मांगे गये थे। इस विज्ञप्ति के सम्बन्ध में रोजगार कार्यालय से प्रार्थी श्री विरेन्द्र सिंह शेखावत का नाम भी भेजा गया था। दिनांक 22.11.2001 के आदेश द्वारा विपक्षी संस्थान में साक्षात्कार हेतु प्रार्थी को बुलाया था और दिनांक 10.12.2001 को प्रार्थी को साक्षात्कार हुआ था। साक्षात्कार के पश्चात दिनांक 10.12.2001 के आदेश द्वारा प्रार्थी को एम.आई.रोड शाखा के लिए चालक के पद पर नियुक्त किया गया।

5. आगे प्रार्थी का कथन है कि अचानक दिनांक 7.11.2006 को विपक्षी संख्या 1 मुख्य प्रबन्धक के द्वारा मौखिक आदेश से विपक्षी को सेवामुक्त कर दिया गया। प्रार्थी ने सेवामुक्ति से सम्बन्धित लिखित आदेश की मांग की तो विपक्षी ने मना कर दिया और कहा विपक्षी को प्रार्थी की सेवाओं की आवश्यकता नहीं है तथा प्रार्थी अपने आप को सेवामुक्त समझे। इस प्रकार दिनांक 7.11.2006 के मौखिक आदेश से प्रार्थी को सेवामुक्त कर दिया गया। विपक्षी द्वारा प्रार्थी को सेवा से हटाने के उक्त कार्यवाही प्राकृतिक न्याय के सिद्धान्त के विपरीत है।

6. प्रार्थी की सेवामुक्ति के पूर्व विपक्ष द्वारा प्रार्थी को कोई नोटिस नहीं दी गई, नोटिस के बदले कोई वेतन का भुगतान नहीं किया गया और छटनी मुआवजा भी नहीं अदा किया गया अतः विपक्ष की सेवामुक्ति की कार्यवाही औद्योगिक विवाद अधिनियम की धारा 25-एफ का उल्लंघन है।

7. याचिका के प्रस्तर 6 में यह कहा गया है कि विपक्षी संस्थान में प्रार्थी ने अपनी नियुक्ति की तिथि 15.11.99 से निरन्तर कार्य किया है। दिनांक 22.11.2001 के आदेश से दिनांक 10.12.2001 को हुए साक्षात्कार के पश्चात जारी आदेश दिनांक 10.12.2001 से भी प्रार्थी ने निरन्तर कार्य किया है। प्रार्थी ने प्रत्येक कलेण्डर वर्ष में 240 दिन से अधिक कार्य किया है। प्रार्थी की नियुक्ति साक्षात्कार के पश्चात की गई थी इस प्रकार प्रार्थी की नियुक्ति स्थायी पद पर की गई थी। प्रार्थी ने विपक्षी के संस्थान में क्रमशः अब्सेडर कार पंजीयन संख्या आर.जे.14- 3सी – 3305 चलाने का कार्य किया है। इसके बाद प्रार्थी ने वाहन पंजीयन संख्या आर.जे.14- 4सी – 3008 और मारुति कार पंजीयन संख्या आर.जे.14-सी.ए. –2846 को चलाने का कार्य किया है।

8. आगे प्रार्थी का यह कथन है कि प्रार्थी की विपक्षी द्वारा सेवामुक्ति की कार्यवाही हायर एण्ड फायर तथा आर्बिटेरी एक्शन है एवं अनुचित श्रम निति का द्योतक है। प्रार्थी ने अपनी नियुक्ति की तिथि से सेवामुक्ति की तिथि तक निरन्तर 240 दिन तक कार्य किया है। प्रार्थी से जूनियर श्रमिक विपक्षी संस्थान में अभी भी कार्यरत है। प्रार्थी जो कार्य करता था वह कार्य विपक्षी के संस्थान में आज भी उपलब्ध है और जब तक विपक्षी संस्थान का अस्तित्व रहेगा तब तक काम रहेगा। विपक्षी द्वारा प्रार्थी को सेवामुक्ति करने के पूर्व कोई वरिष्ठता सूची नहीं बनायी गयी और न ही वरिष्ठता सूची नोटिस बोर्ड पर चर्चा किया गया और न ही उसकी प्रतिलिपि प्रार्थी को उपलब्ध करायी गयी। इस प्रकार विपक्ष द्वारा धारा 25-जी औद्योगिक विवाद अधिनियम के नियम 77 एवं 78 का उल्लंघन किया गया जिसके परिणामस्वरूप प्रार्थी की सेवामुक्ति अनुचित एवं अवैध है। प्रार्थी ने अपनी अवैध सेवामुक्ति के विरुद्ध विपक्षीगण को दिनांक 13.12.2006 को सेवा में वापस लेने के लिए नोटिस भेजा जो उन्हें प्राप्त हुआ है। इसके बाद प्रार्थी ने क्षेत्रीय श्रम आयुक्त के समक्ष सेवामुक्ति के विरुद्ध शिकायत प्रस्तुत की। क्षेत्रीय श्रम आयुक्त के समक्ष विपक्ष ने प्रार्थी को सेवा में लेने से इन्कार कर दिया और दिनांक 15.11.99 से 7.11.2006 तक की विपक्ष के यहां प्रार्थी की सेवा अवधि से भी इन्कार कर दिया अतः प्रार्थी ने प्रार्थना कि है की सेवामुक्ति का मौखिक आदेश दिनांक 7.11.2006 अवैध घोषित किया जाय और प्रार्थी की सेवा को निरन्तर मानते हुए समर्त वेतन व सेवा लाभों के साथ विपक्षी संस्थान की सेवा में पुनर्स्थापना का आदेश पारित किया जाय।

9. विपक्षीगण की तरफ से वादोत्तर प्रस्तुत कर याचिका के प्रस्तर 1.2.3.4.5.6.7 और 8 के कथन को अस्वीकार किया गया है। अतिरिक्त कथन में यह कहा गया है कि प्रार्थी विपक्षी के बैंक में दिनांक 15.11.99 को कभी नियुक्त नहीं किया गया तथा उसने कभी 4000 रु. माहवार वेतन प्राप्त नहीं किया। प्रार्थी ने पूर्णतः गलत कथन प्रस्तुत किया है कि वह बैंक में नियुक्त था तथा उसके कार्य के सम्बन्ध में विपक्ष को कोई शिकायत नहीं रही। पत्रावली पर प्रार्थी द्वारा कोई नियुक्ति पत्र नहीं प्रस्तुत किया गया है। दिनांक 22.11.2001 को प्रार्थी का कोई साक्षात्कार नहीं हुआ था और दिनांक 10.12.2001 के आदेश से कोई नियुक्ति नहीं हुई थी। यह भी कहा गया है कि जब याची विपक्षी बैंक की सेवा में लगा ही नहीं तो उसके सम्बन्ध में कोई शिकायत अथवा उसके द्वारा सन्तोषजनक सेवा करने का प्रश्न ही नहीं उठता। यह भी कहा गया है कि प्रार्थी विपक्षी बैंक के यहां कभी भी चालक के पद पर नहीं रहा। यह भी कहा गया है कि दिनांक 7.11.2006 को विपक्ष द्वारा प्रार्थी की सेवा समाप्ति नहीं की गई जैसा कि प्रार्थी द्वारा कहा गया है, प्रार्थी को कभी नियुक्त ही नहीं किया गया इसलिये उसकी सेवा समाप्ति का प्रश्न ही नहीं उठता। बैंक द्वारा प्राकृतिक न्याय के सिद्धान्त का उल्लंघन नहीं किया गया है।

10. आगे यह उल्लेख है कि बैंक द्वारा प्रार्थी को सेवा समाप्ति के पूर्व नोटिस देने अथवा नोटिस के बदले वेतन देने का प्रश्न नहीं उठता है और न ही बैंक के उपर क्षतिपूर्ति अदायगी की कोई जिम्मेदारी है क्योंकि बैंक द्वारा प्रार्थी को नियुक्ति देना अस्वीकार हैं प्रार्थी का यह कथन बिल्कुल असत्य है कि वह दिनांक 15.11.99 से नियमित रूप से काम कर रहा था और दिनांक 22.11.2001 को साक्षात्कार के बाद उसे दिनांक 10.12.2001 को नियुक्ति पत्र निर्गत किया गया था तथा उसने 240 दिन से ज्यादा कार्य किया है। प्रार्थी द्वारा इस कथन के समर्थन में कोई लिखित अभिलेख साक्ष्य नहीं प्रस्तुत किया गया है।

11. यह भी कहा गया है कि प्रार्थी का यह कहना गलत है कि उसकी सेवा समाप्ति में अनुचित श्रम व्यवहार का अनुसरण किया गया है तथा सेवा समाप्ति मनमानी है। यह भी कहा गया है की प्रार्थी विपक्षी के यहां नियुक्त ही नहीं था तो उससे कनिष्ठ व्यक्ति को सेवा में रखे जाने का प्रश्न ही नहीं उठता। यह भी कहा गया है कि विपक्षी के संस्थान में चालक का पद रिक्त रहने से प्रार्थी के पक्ष में उस पद पर नियुक्त होने का कोई अधिकार उत्पन्न नहीं होता क्योंकि प्रार्थी कभी अस्थायी चालक, दैनिक वेतन भोगी चालक अथवा तदर्थ रूप में बतौर चालक नियुक्त नहीं रहा तथा बैंक द्वारा औद्योगिक विवाद

अधिनियम तथा नियम 77 एवं 78 का उल्लंघन नहीं किया गया है और प्रार्थी के मामले में उक्त नियम से सम्बन्धित प्राविधान लागू नहीं होते हैं। यह भी कहा गया है कि वाहन चालक की नियुक्ति के लिए बैंक द्वारा रोजगार कार्यालय में विवरण देते हुए मांग भेजी जाती है कि किस श्रेणी के चालक की आवश्यकता है जिसमें आरक्षण निति का भी ध्यान रखा जाता है। चयन की पद्धति के अनुसार एक पद के लिए कम से कम तीन अभ्यार्थियों का साक्षात्कार लिया जाना आवश्यक होता है और यदि रोजगार कार्यालय द्वारा तीन से ज्यादा अभ्यार्थियों प्रायोजित किए गए हैं तो ऐसी स्थिति में बैंक के मानक के अनुसार सभी अभ्यार्थियों का साक्षात्कार लिया जाता है बैंक के मापदण्ड के अनुसार वाहन चालक के पद के लिए एक अभ्यार्थी को कम से कम कक्षा 8 पास होना चाहिए और अधिकतम 10 +2 फेल होना चाहिए तथा अधिकतम आयु 29 वर्ष होनी चाहिए। यह भी कहा गया है कि साक्षात्कार चार सदस्यों की कमेटी के द्वारा लिया जाता है और साक्षात्कार के बाद क्षेत्रीय कार्यालय की संस्तुति के बाद विरिच्छा कम में चयनित अभ्यार्थियों की सूची अनुमोदन हेतु केन्द्रीय कार्यालय को भेजी जाती है। प्रार्थी का ऐसा कोई कथन नहीं है कि उक्त चयन प्रक्रिया से प्रार्थी नियुक्ति के लिए गुजरा है जिससे प्रार्थी का कथन स्वयं गलत साबित होता है कि वह चालक के रूप में नियुक्त हुआ एवं उसने 240 दिन तक सेवा की जिसके उपरान्त उसकी सेवाएं समाप्त कर दी गयी।

12. आगे वादोत्तर के प्रस्तर 8 में विपक्ष ने अपने कथन की पुनरावृति करते हुए यह कहा है कि प्रार्थी को न कभी नियुक्ति दी गई और न कभी उसकी सेवा समाप्त की गई, अतः प्रार्थी का यह कहना गलत है कि सुलह समझौते की कार्यवाही में विपक्ष ने प्रार्थी को सेवा में पुनः स्थापित नहीं किया। उक्त तथ्य एवं परिस्थिति में यह प्रार्थना की है कि प्रार्थी की याचिका निरस्त की जाय।

13. प्रार्थी पक्ष की तरफ से अपने प्रार्थना-पत्र के समर्थन में प्रलेखीय साक्ष्य के रूप में विभिन्न अभिलेखों की फोटोप्रतियां दिनांक 12.4.2010 की सूची के साथ प्रस्तुत हैं जिसमें प्रदर्श डब्ल्यू-1 लगायत डब्ल्यू-37 शामिल हैं। इसके अतिरिक्त प्रार्थी श्री विरेन्द्र सिंह शेखावत का शपथ-पत्र दिनांकित 15.6.2010 साक्ष्य में प्रस्तुत है। प्रार्थी श्री विरेन्द्र सिंह शेखावत की प्रतिपरीक्षा दिनांक 28.9.2010 को विपक्ष द्वारा की गयी है।

14. विपक्ष की तरफ से श्री अनुराग शंकर उम्र-54 वर्ष, सहायक महाप्रबन्धक का शपथ-पत्र साक्ष्य में प्रस्तुत है जिनकी प्रतिपरीक्षा याची पक्ष द्वारा दिनांक 2.7.2012 को की गई। विपक्ष की तरफ से प्रलेखीय साक्ष्य में सूची के साथ दिनांक 11.8.2010 को तीन अभिलेख प्रस्तुत किये गये हैं।

15. मैंने उभयपक्ष की विद्वान प्रतिनिधिगण की बहस सुनी तथा पत्रावली का सम्यक् अवलोकन किया। बैंक की तरफ से लिखित बहस भी प्रस्तुत की गई है जो पत्रावली पर उपलब्ध है।

16. याची पक्ष की तरफ से अपने समर्थन में निम्न विधिक दृष्टान्त प्रस्तुत किये गये हैं : -

1. ए.आई.आर. 1968, सर्वोच्च न्यायालय पृष्ठ 1413, गोपाल कृष्णजी केतकर, - अपीलार्थी बनाम मोहम्मद हाजी लतिफ एवं अन्य, - प्रत्यर्थीगण
2. 2005 लेब.आई.सी. 2279 (सर्वोच्च न्यायालय), बैंक ऑफ बडौदा -अपीलार्थी बनाम घोमारभाई हरजीबाई रबडी -प्रत्यर्थी
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4. 2005-2006 एस.सी.एल.जे. पृष्ठ 1323, दिव्यान्ध पण्डित बनाम प्रबन्धन एन.सी.सी.बी.एम.

17. प्रार्थी श्री विरेन्द्र सिंह शेखावत के विद्वान प्रतिनिधि द्वारा यह बहस की गयी है कि प्रार्थी दिनांक 15.11.1999 से विपक्षीगण की सेवा में चालक के पद पर कार्य करता रहा है तथा विपक्षीगण ने प्रार्थी का चयन भी सन् 2001 में नोटिस बोर्ड पर विज्ञापन करने के बाद किया एवं उसे नियुक्ति दी परन्तु दिनांक 07.11.2006 को बिना कोई कारण बताये एवं नोटिस दिये सेवा से निकाल दिया। विपक्षीगण द्वारा इस प्रकार औद्योगिक विवाद अधिनियम 1947 की धारा 25-एफ, धारा 25-जी, धारा 25-एच एवं औद्योगिक विवाद नियमावली के नियम 77 एवं 78 का उल्लंघन किया गया है जिसके परिणामस्वरूप प्रार्थी सेवामुक्ति की तिथि से सेवा में पुनर्स्थापना की तिथि तक के विगत वेतन सहित सेवा में पुनर्स्थापित होने का हकदार है। इसके विरुद्ध विपक्ष के विद्वान प्रतिनिधि की तरफ से यह बहस की गयी है कि प्रार्थी को दिनांक 15.11.1999 को या बाद में नियुक्ति नहीं दी गयी तथा इस सम्बन्ध में प्रार्थी का समस्त कथन मनगढ़न्त है। यह बहस भी की गयी है कि चूंकि कोई नियुक्ति नहीं दी गयी थी अतः सेवा से मुक्त करने या बर्खास्त करने का प्रश्न नहीं उठता है। यह बहस भी की गयी है कि जब कोई नियुक्ति या सेवामुक्ति विपक्ष द्वारा नहीं दी गयी तो औद्योगिक विवाद अधिनियम 1947 के प्राविधान अथवा औद्योगिक विवाद अधिनियम की नियमावली के उल्लंघन का प्रज्ञ नहीं उठता है, एवं याची किसी अनुतोष का हकदार नहीं है। विपक्ष की लिखित बहस भी पत्रावली पर है जिसमें उक्त मौखिक बहस का उल्लेख है। याची पक्ष की तरफ से यह बहस भी की गयी है कि याची की सेवा से सम्बन्धित अभिलेख तलब कराने के लिए याची ने आवेदन प्रस्तुत की जिसे न्यायाधिकरण ने स्वीकार किया और विपक्ष को अभिलेख प्रस्तुत करने के लिए निर्देशित किया लेकिन विपक्ष द्वारा अभिलेख नहीं प्रस्तुत किये गये थे अतः विपक्ष के विरुद्ध साक्ष्य-विधि की धारा 114 के अनुसार प्रतिकूल अवधारणा ग्रहण करने की रिति बनती है। यह भी कहा गया है कि अभिलेखों के सम्बन्ध में विपक्ष द्वारा न्यायाधिकरण के निर्देशानुसार सक्षम अधिकारी का षपथ-पत्र प्रस्तुत किया गया है कि याची द्वारा वान्चित अभिलेख विपक्ष के पास नहीं है क्योंकि उसकी नियुक्ति विपक्ष द्वारा चालक के पद पर कभी नहीं की गयी।

18. जहां तक विपक्ष द्वारा प्रार्थी की दिनांक 15.11.1999 को चालक के पद पर नियुक्ति किये जाने का प्रश्न है इस सन्दर्भ में उल्लेखनीय है कि विपक्ष द्वारा नियुक्ति से इन्कार किया गया है अतः प्रारम्भिक रूप से इस तथ्य को सिद्ध करने का भार याची पक्ष पर है कि क्या विपक्ष द्वारा याची की नियुक्ति दिनांक 15.11.1999 को चालक के पद पर की गयी? इस सम्बन्ध में याची द्वारा अपनी याचिका के समर्थन में षपथ-पत्र तथा सूची से 19 अभिलेख प्रस्तुत किये गये हैं जो प्रदर्श डब्ल्यू-1 लगायत प्रदर्श डब्ल्यू-37 पत्रावली पर उपलब्ध हैं। याची द्वारा प्रस्तुत साक्ष्य में षपथ-पत्र और याचिका में यह उल्लेख किया गया है कि विपक्षी संस्थान में उसकी नियुक्ति दिनांक 15.11.99 को ड्राईवर के पद पर हुई थी और नियुक्ति के समय वह शाखा एम.आई.रोड में कार्यरत था। यह भी कहा है कि उसका अन्तिम वेतन 4000 रुपया प्रतिमाह था। विपक्ष द्वारा वादोत्तर में और साक्ष्य में सहायक महाप्रबन्धक अनुराग शंकर द्वारा प्रस्तुत षपथ-पत्र में कहा गया है कि प्रार्थी की दिनांक 15.11.99 को कभी नियुक्ति नहीं की गयी और न ही उसने चार हजार रुपया प्रतिमाह कभी वेतन प्राप्त किया। विपक्ष ने साक्ष्य में प्रस्तुत अपनी षपथ-पत्र के प्रस्तर 6 में यह उल्लेख किया है कि प्रार्थी विपक्षी के यहाँ कभी भी अस्थायी, तदर्थ अथवा दैनिक वेतन भोगी के रूप में ड्राईवर के पद पर नियुक्त नहीं रहा। पत्रावली पर याची पक्ष की तरफ से कोई अभिलेखीय साक्ष्य अथवा नियुक्ति पत्र इस आशय का नहीं प्रस्तुत किया गया है जिससे यह जाहिर हो कि विपक्षी के यहाँ याची को दिनांक 15.11.99 से चालक के पद पर नियुक्ति दी गयी थी। याची ने याचिका के प्रस्तर एक में तथा साक्ष्य में प्रस्तुत षपथ-पत्र के प्रस्तर एक में उल्लेख किया है कि विपक्षी संस्थान में दिनांक 15.11.99 को उसकी नियुक्ति ड्राईवर के पद पर हुई थी। कोई नियुक्ति पत्र अथवा उसकी प्रति इस सम्बन्ध में याची ने पत्रावली पर नहीं प्रस्तुत किया है। अपनी प्रतिपरीक्षा में याची ने पृष्ठ एक पर प्रारम्भ में ही कहा है कि जो नियुक्ति पत्र उसे दिया गया था वह पत्रावली में है लेकिन उसे मौखिक रूप से याद नहीं है। उल्लेखनीय है कि दिनांक 15.11.99 से प्रार्थी को ड्राईवर के पद पर नियुक्ति से सम्बन्धित कोई नियुक्ति पत्र पत्रावली पर नहीं है। विपक्षी संस्थान में नियुक्ति का दूसरा समय प्रार्थी ने चयन एवं साक्षात्कार के बाद दिनांक 10.12.2001 को किये जाने का उल्लेख किया है। दिनांक 15.11.99 से 10.12.2001 की बीच की अवधि से सम्बन्धित कोई वेतन पर्ची अथवा भुगतान वाताचर की प्रति अथवा भुगतान का विवरण प्रार्थी की तरफ से पत्रावली पर नहीं प्रस्तुत किया गया है। याचिका में अथवा साक्ष्य में इस बात का भी उल्लेख याची पक्ष की तरफ से नहीं किया गया है कि नियुक्ति के समय दिनांक 15.11.99 को याची की नियुक्ति की वज्ह प्रकृति थी वह नियमित चालक के पद पर, अस्थायी या दैनिक वेतन भोगी के रूप में नियुक्ति था तथा उसकी मासिक वेतन वज्ह थी। विपक्षी साक्षी को सम्पूर्ण प्रतिपरीक्षा में कोई ऐसा सारावान तथ्य नहीं आया है जिससे इस तथ्य को समर्थन मिले कि याची विपक्षी के संस्थान में दिनांक 15.11.99 को ड्राईवर के पद पर नियुक्त हुआ। पृष्ठ एक पर प्रतीपरीक्षा में श्री अनुराग शंकर, सहायक महाप्रबन्धक ने कहा है कि बैंक के रिकार्ड के अनुसार दिनांक 15.11.99 को श्री विरेन्द्र सिंह को अस्थायी ड्राईवर के रूप में नहीं लगाया गया था। पूरी प्रतिपरीक्षा के सूचन एवं सम्यक अवलोकन से प्रतिपरीक्षा के किसी स्तर पर इस तथ्य को समर्थन नहीं मिलता कि प्रार्थी विपक्षी बैंक में दिनांक 15.11.99 से नियुक्त था। दिनांक 7.11.2006 को सेवामुक्ति के सम्बन्ध में विपक्षी साक्षी ने प्रतिपरीक्षा में पृष्ठ दो पर कहा है कि दिनांक 7.11.2006 को प्रार्थी को सेवामुक्त किया गया ऐसा कोई रिकार्ड उनके यहाँ नहीं है एवं नियुक्ति का भी कोई रिकार्ड नहीं है। साक्षी ने इस सुझाव से इन्कार किया है कि प्रार्थी ने विपक्षी के यहाँ दिनांक 15.11.99 से 6.11.2006 तक निरन्तर कार्य किया हो क्योंकि ऐसा कोई रिकार्ड विपक्षी के यहाँ नहीं है।

19. हाजिरी रजिस्टर के सम्बन्ध में विपक्षी साक्षी ने पृष्ठ तीन पर प्रतिपरीक्षा में कहा है कि चालक के लिए अलग से कोई हाजिरी रजिस्टर नहीं होता है सभी के साथ ही चालक का भी हाजिरी रजिस्टर होता है। प्रार्थी ने स्वयं प्रतिपरीक्षा में कहा है कि उसकी हाजिरी उपस्थिति पंजिका में अंकित नहीं की जाती थी। साक्षी ने दिये गये सुझाव के सम्बन्ध में कहा है कि यह कहना सही नहीं है कि साक्ष्य के सम्बन्ध में जो षपथ-पत्र तथा उससे पूर्व याची पक्ष द्वारा मांगे गये दस्तावेज से सम्बन्ध में जो षपथ-पत्र प्रस्तुत किया है वह गलत तथ्यों पर पेश किया है। विपक्षी साक्षी ने इस सुझाव से भी इन्कार किया है कि प्रार्थी द्वारा जो दस्तावेज मांगे गये हैं उसे जानबूझ कर विपक्ष ने पेश नहीं किया है। विपक्षी साक्षी की प्रतिपरीक्षा से याची पक्ष में कोई सारावान साक्ष्य प्रकट नहीं होता है जिससे इस बिन्दु को बल मिले कि याची दिनांक 15.11.99 को नियुक्त हुआ। पृष्ठ दो पर प्रतिपरीक्षा में याची ने स्वीकार किया है कि 240 दिन कार्य करने की अवधि जो उसने बताया है वह ड्राईवर की लाग बुक के आधार पर बताई है लेकिन उसने लाग-बुक की प्रतिलिपि पत्रावली पर नहीं प्रस्तुत की है। उभयपक्ष द्वारा पत्रावली पर प्रस्तुत प्रलेखीय एवं मौखिक साक्ष्य की उक्त व्याख्या एवं विष्लेषण से मैं इस निष्कर्ष पर हूँ कि विपक्षी के यहाँ दिनांक 15.11.99 से ड्राईवर के पद पर अपनी नियुक्ति प्रार्थी सिद्ध नहीं कर सका है।

20. जहां तक ड्राईवर के नियमित पद हेतु प्रार्थी की बैंक प्रबन्धन द्वारा साक्षात्कार लिये जाने तथा प्रार्थी को साक्षात्कार के आधार पर दिनांक 10.12.2001 से नियमित चालक के रूप में दिनांक 7.11.2006 तक सेवा में रखे जाने का प्रश्न है इस सम्बन्ध में उल्लेखनीय है कि वादोत्तर में इन्कार किया गया है कि चालक के पद हेतु कोई विज्ञप्ति बैंक द्वारा निर्गत की गयी थी और प्रार्थी को साक्षात्कार के आधार पर ड्राईवर के पद पर बैंक की एम.आई.रोड, शाखा में हुई। प्रार्थी द्वारा पत्रावली पर प्रस्तुत अभिलेख प्रदर्श डब्ल्यू-2,3,4,9,10,13 एवं 14 लगायत 18 को विपक्षी साक्षी ने प्रतिपरीक्षा में पृष्ठ एक पर स्वीकार किया है कि ये अभिलेख विपक्षी बैंक के अभिलेख हैं। प्रदर्श डब्ल्यू-5 को भी विपक्षी साक्षी ने प्रतिपरीक्षा में स्वीकार किया है जो याची के विद्वान अधिवक्ता द्वारा विपक्ष को सेवा में पुनः वापस लेने की पंजीकृत नोटिस दिनांकित 13.12.2006 है जिसका विपक्ष ने उत्तर दिनांक 8.3.2007 को दिया है। उत्तर की प्रति पत्रावली पर विपक्ष ने प्रस्तुत की है। प्रदर्श डब्ल्यू-9 क्षेत्रीय कार्यालय द्वारा एम.आई.रोड शाखा की मॉग दिनांक 09.07.2001 पर रोजगार कार्यालय के माध्यम से एक अस्थायी चालक हेतु साक्षात्कार की प्रक्रिया प्रारम्भ करने की अनुमति है। प्रदर्श डब्ल्यू-10 सूचना नोटिस बोर्ड हेतु नियुक्ति से सम्बन्धित है तथा प्रदर्श डब्ल्यू-11 रोजगार कार्यालय द्वारा नियुक्ति से सम्बन्धित पत्राचार दिनांकित 17.9.2001 है। पत्रावली पर उपलब्ध अभिलेख प्रदर्श डब्ल्यू-2 लगायत 4 से यह प्रकट है कि याची के घर के पते पर अस्थायी ड्राईवर के पद पर साक्षात्कार हेतु पत्र प्रदर्श डब्ल्यू-2 दिनांक 22.11.2001 को भेजा गया था और दिनांक 10.12.2001 को साक्षात्कार सम्पन्न हुआ। प्रदर्श डब्ल्यू-3 अभ्यार्थियों की उपस्थिति पत्रक है जिससे यह जाहिर होता है कि याची सहित कुल पॉच व्यक्ति साक्षात्कार में शामिल हुए। प्रदर्श डब्ल्यू-4 क्षेत्रीय कार्यालय चेन्नई, को भेजा गया

साक्षात्कार का निष्कर्ष है जिसे स्वीकृति (approval) हेतु दिनांक 10.12.2001 को भेजा गया है। साक्षात्कार के उपरान्त प्राप्त निष्कर्ष में प्रथम स्थान प्रार्थी वीरेन्द्र सिंह को दिया गया है तथा उसे अस्थायी चालक के पद पर नियुक्त करने की संस्तुति की गयी है परन्तु क्षेत्रीय कार्यालय को प्रदर्श डब्ल्यू-14 दिनांक 27.12.2001 के उत्तर में यह कहा गया है कि स्केल चार तथा उसके नीचे के स्केल के अधिकारी स्थायी अथवा वैयक्तिक ड्राइवर के लिए अधिकृत नहीं है, इस प्रकार नियुक्ति की स्वीकृति नहीं दी गयी है। प्रदर्श डब्ल्यू-15 लगायत प्रदर्श डब्ल्यू-18 से यह जाहिर है कि साक्षात्कार के निष्कर्ष के आधार पर स्केल चार तथा उसके नीचे के अधिकारी के चालक हेतु अधिकृत न होने के कारण यह भी निर्देश दिया गया है कि व्यक्तिगत स्तर पर भी चालक रखने की अनुमति नहीं है क्योंकि ऐसा अधिकार नहीं है अतः व्यक्तिगत स्तर पर भी कोई चालक रखा गया है तो उसे न रखा जाय। इस प्रकार यह स्पष्ट निष्कर्ष है कि विज्ञप्ति और साक्षात्कार के आधार पर भी दिनांक 10.12.2001 को विपक्षी संस्थान में प्रार्थी की कोई नियुक्ति नहीं हुई है तथा इस आधार पर भी कोई नियुक्ति पत्र पत्रावली पर याची ने नहीं प्रस्तुत किया है न ऐसी नियुक्ति की पुष्टि होती है। सभी अभिलेखों के सम्बन्ध अवलोकन से यह साबित है कि प्रार्थी का चयन विपक्ष द्वारा किया गया किन्तु नियुक्ति की संस्तुति सक्षम अधिकारी द्वारा नहीं दी गयी क्योंकि एम.आई.रोड शाखा के प्रबन्धक वाहन चालक पाने की स्वीकृत अधिकारियों की सूची में शामिल नहीं थे जिसके परिणामस्वरूप प्रार्थी की नियुक्ति का अनुमोदन नहीं हो सका और न नियुक्ति हो सकी।

21. जहाँ तक दिनांक 7.11.2006 तक प्रार्थी के विपक्षी के यहाँ नियमित चालक के रूप में कार्यरत रहने तथा सेवामुक्ति के ठीक पूर्व 240 दिन तक लगातार कार्य करने का प्रश्न है इस सन्दर्भ में उल्लेखनीय है कि प्रस्तावित साक्षात्कार नियमित चालक के पद पर नहीं बल्कि अस्थायी चालक के पद हेतु था जो साक्षात्कार दिनांक 10.12.2001 को सम्पन्न हुआ परन्तु इसके आधार पर कोई नियुक्ति नहीं हुई। याची का कथन है कि उसे दिनांक 7.11.2006 को बिना कोई नोटिस या कारण बताये हटा दिया गया तथा कोई कारण नहीं दिया गया इस प्रकार धारा 25 एफ का उल्लंघन किया गया। विपक्ष की तरफ से दिनांक 10.12.2001 या उसके बाद किसी भी शर्त पर नियुक्ति अथवा सेवामुक्ति से इन्कार किया गया है। याची ने कुछ भुगतान वाउचर प्रदर्श डब्ल्यू-20 लगायत प्रदर्श डब्ल्यू-37 प्रस्तुत किये हैं जिसका विवरण निम्नवत् है :-

वाउचर तिथि	धनराशि	वाउचर नम्बर
दिनांक 15.09.2005	950.00	प्रदर्श डब्ल्यू-37
दिनांक 08.10.2005	950.00	प्रदर्श डब्ल्यू-36
दिनांक 22.10.2005	950.00	प्रदर्श डब्ल्यू-34
दिनांक 29.10.2005	950.00	प्रदर्श डब्ल्यू-35
दिनांक 19.11.2005	950.00	प्रदर्श डब्ल्यू-32
दिनांक 26.11.2005	950.00	प्रदर्श डब्ल्यू-33
दिनांक 03.12.2005	950.00	प्रदर्श डब्ल्यू-30
दिनांक 10.12.2005	950.00	प्रदर्श डब्ल्यू-31
दिनांक 17.12.2005	950.00	प्रदर्श डब्ल्यू-26
दिनांक 24.12.2005	950.00	प्रदर्श डब्ल्यू-27
दिनांक 31.12.2005	950.00	प्रदर्श डब्ल्यू-28
दिनांक 7.1.2006	950.00	प्रदर्श डब्ल्यू-24
दिनांक 21.1.2006	950.00	प्रदर्श डब्ल्यू-25
दिनांक 28.1.2006	950.00	प्रदर्श डब्ल्यू-29
दिनांक 4.2.2006	950.00	प्रदर्श डब्ल्यू-20
दिनांक 11.2.2006	950.00	प्रदर्श डब्ल्यू-18
दिनांक 18.2.2006	950.00	प्रदर्श डब्ल्यू-23
दिनांक 25.2.2006	950.00	प्रदर्श डब्ल्यू-22

22. उक्त 18 वाउचरों के सूक्ष्म अवलोकन से यह जाहिर होता है कि प्रार्थी को एक-एक सप्ताह ही अवधि पर भुगतान किया गया है और एक सप्ताह की अवधि के भुगतान की मात्रा रूपया 950.00 है एवं सप्ताह की समाप्ति पर भुगतान किया गया है। दिनांक 15.9.2005 की तिथि के पूर्व का कोई वाउचर नहीं प्रस्तुत है। उक्त भुगतान प्रार्थी को चालक का कार्य करने के बदले में किया हुआ दर्शाया गया है। इन वाउचरों के अस्तित्व को सही स्वीकार किया जाय तो याची के दैनिक वेतनकर्मी होने के तथ्य का समर्थन होता है। विपक्षी साक्षी श्री अनुराग शंकर ने इन वाउचरों की फोटोप्रिति कमांग डब्ल्यू 10 लगायत 37 को प्रतिपरीक्षा के दौरान देखकर कहा है कि ये वाउचर बैंक के वाउचर दिखते हैं लेकिन इनका सत्यापन करने के बाद ही निष्प्रित कहा जा सकता है। याची की तरफ से इस बात का कोई सन्तोषजनक कारण नहीं दर्शाया गया है कि दिनांक 15.11.99 के बाद

और 25.2.06 के बाद एवं दिनांक 7.11.2006 के पूर्व के वाउचर कहाँ है तथा क्यों नहीं प्रस्तुत हो सके हैं। उक्त दोनों तिथियों दिनांक 15.9.2005 और 25.2.2006 के बीच के भी कुछ समयावधि के वाउचर नहीं हैं जिससे यह प्रकट हो सके कि प्रार्थी उक्त अवधि में लगातार कार्य किया है। दिनांक 15.11.99 तथा 25.2.2006 के बीच के समस्त दिनों की संख्या रविवार तथा सार्वजनिक अवकाश के साथ जोड़कर एकीकृत कर दिया जाय तब भी 240 दिन प्रार्थी के कार्य दिवसों की संख्या नहीं बन सकेगी। प्रार्थी ने पृष्ठ दो पर प्रतिपरीक्षा में स्वयं स्वीकार किया है कि वह उपरिथित रजिस्टर में हस्ताक्षर नहीं करता था एवं 240 दिन कार्य करने की बात उसने वाहन के लाग-बुक के आधार पर बतायी है परन्तु लाग-बुक की प्रति उसने नहीं प्रस्तुत की है।

23. जहाँ तक कथित वाहनों पर प्रार्थी के चालक के रूप में कार्यरत रहने का प्रबंध है विपक्ष द्वारा वादोत्तर में इन्कार किया गया है एवं साक्ष्य में शपथ-पत्र में कहा गया है कि प्रार्थी कभी बतौर चालक अस्थायी, दैनिक वेतन भोगी अथवा तदर्थ रूप में नियुक्त नहीं रहा। प्रतिपरीक्षा में विपक्षी ने अम्बेसडर कार के सम्बन्ध में कहा है कि बैंक में आर.जे. 14-3सी-3303 पंजीयन संख्या की कोई अम्बेसडर कार नहीं है तथा पहले रही होगी तो साक्षी रिकार्ड देखकर ही बता सकता है। शेष दो गाड़ियों तथा उनके प्रार्थी द्वारा चलाये जाने के सम्बन्ध में भी विपक्षी ने अनभिज्ञता प्रकट की है। विपक्षी साक्षी ने इस सुझाव से इन्कार किया है कि जो दस्तावेज विपक्ष से न्यायाधिकरण द्वारा मांगा गया था उसे जानबूझकर प्रस्तुत नहीं किया गया है। याची ने स्वयं स्वीकार किया है कि उसके हस्ताक्षर उपरिथित पंजिका में नहीं होती थी तथा वाहन के लॉग-बुक की प्रतिलिपि उसने नहीं प्रस्तुत की है जिसके आधार पर उसने 240 दिन काम करना बताया है। उक्त व्याख्या एवं विष्लेषण से मैं इस निष्कर्ष पर हूँ कि प्रार्थी सेवामुक्ति की तिथि साबित नहीं कर सका है और सेवामुक्ति के ठीक पूर्व लगातार 240 दिन कार्य करने के तथ्य को भी साबित नहीं कर सका है।

24. जहाँ तक विपक्ष द्वारा धारा 25-जी एवं धारा 25-एच एवं नियम 77 व 78 के उल्लंघन का प्रबंध है धारा 25-जी छंटनी के लिए प्रक्रिया से सम्बन्धित है जिसके अनुसार नियोजक और कर्मकार के बीच छंटनी के सम्बन्ध में किसी करार के अभाव में नियोजक सामान्यतः उस कर्मकार की छंटनी करेगा जो कर्मकार के प्रवर्ग में नियोजित किया जाने वाला अन्तिम व्यक्ति है। प्रार्थी का कथन है कि उसे हटाने में धारा 25-जी का उल्लंघन किया गया है। याचिका के प्रस्तर सात तथा साक्ष्य में शपथ-पत्र के प्रस्तर सात में प्रार्थी ने कहा है कि उससे कनिष्ठ श्रमिक विपक्षी संस्थान में कार्यरत है परन्तु कोई नाम अथवा विवरण नहीं दिया गया हैं अतः मैं इस निष्कर्ष पर हूँ कि याची धारा 25-जी का उल्लंघन सिद्ध नहीं कर सका है। जहाँ तक धारा 25-एच के उल्लंघन का प्रबंध है धारा 25-एच छंटनी किये गये कर्मचारी को पुनः नियोजन में लेने से सम्बन्धित है। धारा 25-एच के अनुसार जहाँ किसी कर्मचारी की छंटनी की जाती है और नियोजक किन्हीं व्यक्तियों को अपने नियोजन में रखने की प्रस्थापना करता है ऐसी स्थिति में नियोजक का यह दायित्व है कि वह छंटनी किये गये कर्मचारी को नियोजन में लेने के लिए अवसर प्रदान करेगा और छंटनीशुदा कर्मचारी यदि सेवा में नियोजन के लिए तैयार हैं तो अन्य व्यक्तियों की तुलना में उसे नियोजक द्वारा वरीयता प्रदान की जायेगी। याची पक्ष द्वारा याचिका में ऐसा कोई उल्लेख नहीं है कि विपक्ष द्वारा याची को सेवा से हटाये जाने के बाद किसी अन्य व्यक्ति की चालक के पद पर नियुक्ति की गयी है। अतः मैं इस निष्कर्ष पर हूँ कि प्रार्थी पक्ष धारा 25-एच औद्योगिक विवाद अधिनियम के प्राविधान का उल्लंघन साबित नहीं कर सका है।

25. प्रार्थी पक्ष के विद्वान अधिवक्ता/प्रतिनिधि की तरफ से AIR 1968 Supreme Court 1413, Gopal Krishnaji Ketkar, Appellant v. Mohamed Haji Latif and others, Respondents का दृष्टान्त इसलिए प्रस्तुत किया गया है कि धारा 114 साक्ष्य अधिनियम के अन्तर्गत विपक्षी बैंक के विरुद्ध प्रतिकूल अवधारणा ग्रहण की जाय क्योंकि विपक्षी ने याची पक्ष द्वारा वान्छित दस्तावेजों, हाजिरी रजिस्टर, वेतन भुगतान विवरण एवं वाहन की लाग-बुक आदि नहीं प्रस्तुत की है। मैंने उक्त दृष्टान्त का सम्यक अवलोकन किया। उद्भूत दृष्टान्त में अपीलार्थी ने यह याचना की कि इस बात का पंजीयन कर दिया जाय कि हाजी मलंग दरगाह पब्लिक ट्रस्ट नहीं है एवं सर्वे नम्बर 134 की जमीन ट्रस्ट की सम्पत्ति नहीं है तथा अपीलार्थी trustee है। डिप्टी चेरिटी कमिश्नर ने आवेदन खारिज की और यह घोषित किया कि दरगाह पब्लिक ट्रस्ट है तथा इसे पब्लिक ट्रस्ट के रूप में पंजीकृत किया जाये। डिप्टी चेरिटी कमिश्नर ने यह भी अवधारित किया कि 134 सर्वे नम्बर की जमीन दरगाह की सम्पत्ति हैं जिसके एक हिस्से पर दरगाह स्थित है तथा ट्रस्ट के लिये ट्रस्टी की नियुक्ति एवं ट्रस्ट से जुड़ी योजना के लिए सक्षम न्यायालय में आवेदन प्रस्तुत की जा सकती है। इस आदेश के विरुद्ध अपील भी खारिज हो गयी। अपील आदेश से क्षुब्ध होकर अपीलार्थी ने अपील आदेश के विरुद्ध आवेदन जनपद न्यायाधीश के समक्ष प्रस्तुत की। प्रत्यर्थीगण एक लगायत 4 ने पूर्व की भौति जनपद न्यायाधीश के समक्ष अपीलार्थी की आवेदन का विरोध कर यह कहा कि दरगाह एक पब्लिक ट्रस्ट है एवं सर्वे नम्बर 134 की जमीन ट्रस्ट की है एवं अपीलार्थी दरगाह का ट्रस्टी नहीं है। विद्वान जनपद न्यायाधीश के आदेश के विरुद्ध अपील में माननीय उच्च न्यायालय ने पुनः मामले को जनपद न्यायाधीश की न्यायालय में इस निर्देश के साथ निर्णयार्थ प्रत्यावर्तित किया कि जनपद न्यायाधीश महोदय की न्यायालय यह निर्णित करे की अपीलार्थी ट्रस्टी है या मैनेजर और जमीन संख्या 134 ट्रस्ट की सम्पत्ति है या नहीं। विद्वान जनपद न्यायाधीश की न्यायालय ने दिनांक 29.2.1960 के निर्णय से यह अवधारित किया कि सर्वे प्लाट संख्या 134 पब्लिक ट्रस्ट पीर हाजी मलंग साहेब दरगाह की सम्पत्ति नहीं है तथा अपीलार्थी ट्रस्ट का hereditary trustee था क्योंकि अपीलार्थी का परिवार दरगाह का आनुवंशिक न्यासी (hereditary trustee) था।

26. विद्वान जनपद न्यायाधीश के निर्णय के विरुद्ध दो अपीले प्रस्तुत हुई जिसमें से एक चेरिटी कमिश्नर तथा दूसरी प्रत्यर्थीगण 3 व 4 ने प्रस्तुत की। माननीय उच्च न्यायालय ने दोनों अपीले एक साथ निर्णित की और विद्वान जनपद न्यायाधीश के निर्णय की पुष्टि की कि अपीलार्थी के परिवार के अधीन दरगाह का प्रबन्धन था तथा प्लाट संख्या 134 दरगाह की सम्पत्ति थी। माननीय उच्च न्यायालय के निर्णय के विरुद्ध माननीय सर्वोच्च न्यायालय के समक्ष अपील में यह प्रश्न विचारणीय था कि

135 नम्बर प्लाट दरगाह की सम्पत्ति है या अपीलार्थी की सम्पत्ति है। इस सम्बन्ध में माननीय सर्वोच्च न्यायालय ने माननीय उच्च न्यायालय के निर्णय की पुष्टि की कि प्लाट दरगाह की सम्पत्ति है। तदनुसार अपीलार्थी की अपील निरस्त हुई।

27. उल्लेखनीय है कि इस मामले में डिप्टी चेरिटी कमिशनर के समक्ष आवेदन पंजीयन हेतु अपीलार्थी ने प्रस्तुत की थी। प्लाट संख्या 134 के सम्बन्ध में अपीलार्थी द्वारा अभिलेखीय साक्ष्य की प्रस्तुति के सम्बन्ध में माननीय सर्वोच्च न्यायालय ने निर्णय के प्रस्तर 5 में यह उल्लेख किया है, “.....In the Course of his evidence the appellant admitted that he was enjoying the income of plot No.134 but he did not produce any accounts to substantiate his contention. He also admitted that “he had got record of the Dargah income and that account was kept separately”. But the appellant has not produced either his own accounts or the account of the Dargah to show as to how the income from plot No. 134 was dealt with. Mr. Gokhale, however, argued that it was no part of the appellant’s duty to produce the accounts unless he was called upon to do so and the onus was upon the respondents to prove the case and to show that the Dargah was the owner of plot No.134. We are unable to accept this argument as correct. Even if the burden of proof does not lie on a party the Court may draw an adverse inference if he withholds important documents in his possession which can throw light on the facts at issue. It is not, in our opinion, a sound practice for those desiring to rely upon a certain state of facts to withhold from the Court the best evidence which is in their possession which could throw light upon the issues in controversy and to rely upon the abstract doctrine of onus of Proof.

28. इस सम्बन्ध में माननीय सर्वोच्च न्यायालय द्वारा 2006, सुप्रीम कोर्ट (एल.एण्ड एस.), पृष्ठ 38 में दी गयी व्यवस्था उल्लेखनीय है। 2006 सुप्रीम कोर्ट (एल.एण्ड एस.), 38, सुरेन्द्र नगर जिला पंचायत – अपीलार्थी बनाम दहयाभाई अमर सिंह – प्रत्यर्थी में प्रकरण के तथ्यानुसार प्रत्यर्थी की सेवा 15.8.85 के आदेष से समाप्त कर दी गयी थी। सेवा समाप्ति के लगभग सात साल बाद दिनांक 01.6.92 को प्रत्यर्थी ने अपीलार्थी को सेवा में पुनर्स्थापना की नोटिस भेजी और अन्ततः प्रत्यर्थी की सेवा समाप्ति का विवाद न्यायनिर्णयन हेतु औद्योगिक न्यायाधिकरण को सुपुर्दि किया गया।

29. प्रत्यर्थी ने अपने स्टेटमेन्ट ऑफ क्लेम में यह उल्लेख किया कि वह सेवा समाप्ति के आदेश दिनांक 15.8.85 तक 10/- रुपये दैनिक मजदूरी पर अपीलार्थी की सेवा में था एवं सेवा समाप्ति के आदेष निर्गत होने के पूर्व औद्योगिक विवाद अधिनियम के प्राविधानों का पालन नहीं किया गया। श्रम न्यायालय के समक्ष प्रत्यर्थी की तरफ से एक आवेदन अपीलार्थी को निर्देश जारी करने के लिए प्रस्तुत हुई कि अपीलार्थी 1976 से 1986 तक की सेवा अवधि का वेतन रजिस्टर एवं मस्टर रोल प्रस्तुत करें। अपीलार्थी ने स्टेटमेन्ट ऑफ क्लेम के विरुद्ध यह कथन प्रस्तुत किया कि प्रत्यर्थी स्वयं काम पर आना बन्द कर कर दिया एवं उसे कोई स्थायी नियुक्ति नहीं दी गयी थी। वह मुतकर्फा कार्यों के लिए नियुक्त था तथा जब काम होता था तो उसे बुला लिया जाता था। यह भी कहा गया कि कर्मचारी ने सेवासमाप्ति के ठीक पूर्व पूर्वर्ती 12 माहों में 240 दिन तक लगातार कार्य नहीं किया है। यह भी कहा गया कि उसने सन् 82, 83 और 84 में क्रमशः 114, 63 और 124 दिन कार्य किया है अतः उसकी सेवाएं समाप्त करने के पूर्व धारा 25 (एफ) औद्योगिक विवाद अधिनियम में दी गयी प्रक्रिया का अनुपालन करने की विधिक आवश्यकता नहीं थी।

30. प्रत्यर्थी ने स्वयं को साक्ष्य में प्रस्तुत कर सशपथ कहा कि वह दस साल तक 470/- रुपये प्रतिमाह के वेतन पर नियुक्त था। अपीलार्थी की तरफ से एक कर्मचारी ने साक्ष्य में उपस्थित होकर कहा कि कर्मचारी ने कभी भी एक वर्ष में 240 दिन काम नहीं किया। श्रम न्यायालय ने प्रत्यर्थी के साक्ष्य पर भरोसा किया और मस्टर रोल तथा 1976 से 86 तक की वेतन रजिस्टर न प्रस्तुत करने पर प्रतिकूल अवधारणा ग्रहण कर यह अवधारित किया कि प्रत्यर्थी ने 240 दिन से ज्यादे कार्य किया अतः उसकी सेवामुक्ति अवैधानिक थी। श्रम न्यायालय ने धारा 25 (एफ), 25 (जी) एवं 25 (एच) की प्रक्रिया का पालन न करने के कारण कर्मचारी को पुनर्स्थापना के लिए आवेदित किया एवं साथ ही पिछले वेतन की 20 प्रतिष्ठत धनराशि अदा करने का निर्देश दिया।

31. माननीय उच्च न्यायालय की एकलपीठ ने श्रम न्यायालय के निर्णय की पुष्टि की तथा श्रम न्यायालय के निर्णय के विरुद्ध अपीलार्थी की याचिका खारिज की। एकल पीठ के निर्णय के विरुद्ध माननीय उच्च न्यायालय की खण्डपीठ ने लेटर्स पेटेंट अपील निरस्त की एवं यह अवधारित किया कि श्रम न्यायालय ने सही अवधारित किया है कि कर्मचारी ने मौखिक साक्ष्य से अपने कथन साबित किया है। माननीय खण्डपीठ ने श्रम न्यायालय द्वारा वेतन पंजिका, मस्टर रोल, तथा कर्मचारियों की विरिष्टता सूची न प्रस्तुत करने पर ग्रहण की गयी प्रतिकूल अवधारणा को भी सही ठहराया। श्रम न्यायालय ने यह भी अवधारित किया कि प्रत्यर्थी की तुलना में एवं कनिष्ठ कर्मचारी की सेवा नियमित रूप से जारी रखी गयी और प्रत्यर्थी की सेवा समाप्त कर दी गयी।

32. माननीय सर्वोच्च न्यायालय के समक्ष माननीय उच्च न्यायालय की खण्डपीठ के निर्णय के विरुद्ध अपीलार्थी की यह बहस थी कि माननीय सर्वोच्च न्यायालय ने अपने अनेक निर्णयों में अत्यन्त स्पष्ट रूप से यह अवधारित किया है कि प्रारम्भिक तौर पर सिद्ध करने का दायित्व कर्मचारी पर है कि सेवा समाप्ति की तिथि के पूर्व एक वर्ष में कर्मचारी ने 240 दिन कार्य किया है जो दायित्व निर्वाह करने में कर्मचारी असफल रहा है। यह बहस भी की गयी कि 10 साल का अभिलेख प्रस्तुत न करने पर प्रतिकूल अवधारणा ग्रहण करने की कोई वजह नहीं थी। प्रत्यर्थी की तरफ से यह बहस की गयी श्रम न्यायालय ने प्रतिकूल अवधारणा अभिलेखों के सम्बन्ध में ग्रहण करके श्रम न्यायालय ने सही किया है क्योंकि नियोजक के कब्जे में अभिलेख थे अतः श्रम न्यायालय द्वारा मौग किये जाने पर उसे प्रस्तुत करना नियोक्ता का कर्तव्य था। यह बहस भी की गयी कि अभिलेख नियोक्ता के कब्जे में है इसलिए उसका दायित्व है कि वह सिद्ध करे कि सम्बन्धित अवधि में कर्मचारी ने 240 दिन कार्य नहीं किया है।

33. उभयपक्ष की उक्त बहस के परिपेक्ष में माननीय सर्वोच्च न्यायालय ने धारा 2 (ओओ), धारा 25 (बी) एवं 25 (एफ) की स्पष्ट एवं बोधगम्य व्याख्या करते हुए प्रस्तर 8 पृष्ठ 43 में कर्मचारी द्वारा तथ्यों को सिद्ध करने के दायित्व के सम्बन्ध में तथा

छटनी की वैधानिकता के सम्बन्ध में यह अवधारित किया है, "To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of Section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by Section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of Section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of Section 25-F of the Act.

34. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:-

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 day's average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner."

35. माननीय सर्वोच्च न्यायालय ने प्रस्तर 10 में (1980) 4 एस.सी.सी पृष्ठ 443, सुरेन्द्र कुमार वर्मा बनाम सेन्ट्रल गर्डमेन्ट इण्डस्ट्रीयल ट्रिब्यूनल कम लेबर कोर्ट में अपने पूर्णपीठ के फैसले सहित अनेक फैसलों का उल्लेख एवं उनकी व्याख्या करते हुए यह अवधारित किया है कि यह सिद्धान्त है कि सिद्ध करने का दायित्व कर्मचारी पर है कि वह दर्शाये कि कथित छटनी की तिथि के ठीक पूर्व एक वर्ष में उसने 240 दिन कार्य किया है और यह दायित्व भी उसी पर है वह स्वयं के साक्ष्य में परिक्षित कराने के अतिरिक्त साक्ष्य प्रस्तुत करें।

36. निर्णय के प्रश्तर 18 में माननीय सर्वोच्च न्यायालय ने उल्लेख किया है कि प्रत्यर्थी की तरफ से मौखिक साक्ष्य के अतिरिक्त कोई साक्ष्य 240 दिन कार्य करने के सम्बन्ध में नहीं प्रस्तुत किया गया है, न वेतन या मजदूरी के सम्बन्ध में कोई रसीद, या अभिलेख या आदेश प्रस्तुत है, न कोई सहकर्मचारी परिक्षित कराया गया, न ही नियोक्ता द्वारा प्रस्तुत मस्टर-रोल पर कोई खण्डन प्रस्तुत किया गया।

37. माननीय सर्वोच्च न्यायालय ने यह भी उल्लेख किया है कि यह असम्भव है कि कर्मचारी जो इतनी लम्बी सेवा करने का दावा करता है उसके पास नियोक्ता के अधीन सेवा में लगे रहने तथा कार्य की प्रकृति के सम्बन्ध में कोई अभिलेखीय साक्ष्य नहीं होगा। माननीय सर्वोच्च न्यायालय ने अवधारित किया कि कर्मचारी ने 240 दिन तक कार्य में संलग्न रहने के तथ्य को सिद्ध करने के दायित्व का निर्वाह नहीं किया है एवं विद्वान अधीनस्थ न्यायालयों ने नियोक्ता द्वारा 10 वर्ष का अभिलेख न प्रस्तुत करने के सम्बन्ध में प्रतिकूल अवधारणा गलत ग्रहण की है। माननीय सर्वोच्च न्यायालय ने यह अवधारित किया कि प्रत्यर्थी की सेवा समाप्ति के पूर्व प्रत्यर्थी को धारा 25 (एफ) की सुरक्षा अथवा अनुपालन का अधिकार नहीं था।

38. धारा 25 (जी) एवं 25 (एच) के अनुपालन के सम्बन्ध में यह साक्ष्य था कि दैनिक वेतन भोगी की सूची का रखरखाव अपीलार्थी द्वारा नहीं किया जाता। इस सम्बन्ध में माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि कर्मचारी की नियमित सेवा के अभाव में अपीलार्थी से दैनिक वेतन भोगियों की वरिष्ठता सूची के रख रखाव की उम्मीद नहीं की जा सकती है। अभिलेखों की माँग पर अपीलार्थी द्वारा न प्रस्तुत किये जाने पर धारा 114 (III) (जी) भारतीय साक्ष्य अधिनियम के अन्तर्गत न्यायालय द्वारा प्रतिकूल अवधारणा ग्रहण किये जाने के सम्बन्ध में माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि ऐसी अवधारणा ग्रहण करने पूर्व न्यायालय के समक्ष कर्मचारी द्वारा इस बात का साक्ष्य प्रस्तुत करना होगा कि कोई वरिष्ठता सूची अस्तित्व में है अन्यथा प्रतिकूल अवधारणा ग्रहण करने की अनुतोष नहीं प्रदान की जा सकती। न्यायालय द्वारा प्रतिकूल अवधारणा ग्रहण करने हेतु अधिकार प्रदत्त होने के लिए न्यायालय को सन्तुष्ट होना अनिवार्य है कि साक्ष्य अस्तित्व में है और उसे सिद्ध किया जा सकता था। माननीय सर्वोच्च न्यायालय ने तदनुसार अपील स्वीकार की।

39. 2005 ए.आई.आर. एस.सी.डब्ल्यू पृष्ठ 6103 आर.एम.येल्लाटटी —अपीलार्थी बनाम असिस्टेन्ट एक्जीक्यूटिव इन्जीनियर —प्रत्यर्थी में अपीलार्थी दैनिक वेतन भोगी के रूप में दिनांक 26.11.88 को नियुक्त हुआ और दिनांक 20.6.94 तक कार्य किया। दिनांक 20.6.94 को उसकी सेवा समाप्त कर दी गयी। उसका कहना था कि दिनांक 20.6.94 के पूर्व उसने 240 दिन तक लगातार सेवा की थी अतः सेवासमाप्ति में धारा 25—एफ औद्योगिक विवाद अधिनियम का उल्लंघन किया गया, इस प्रकार उसकी सेवा समाप्ति अवैध छटनी थी अतः उसे सेवा में पुनर्स्थापित किया जाय तथा सेवासमाप्ति का आदेश निरस्त किया जाय। विपक्ष द्वारा वादोत्तर में यह कहा गया कि अपीलार्थी धारा 2(एस) की परिभाषा के अनुसार "कर्मकार" नहीं है अतः धारा 25—एफ का लाभ पाने का हकदार नहीं है। यह भी कहा गया कि विपक्षी "सिचाई विभाग" "उद्योग" की परिभाषा से आच्छादित नहीं है इसलिए धारा 25—एफ के अनुपालन की आवश्यकता नहीं है।

सहायक अधिकारी अभियन्ता ने अपीलार्थी को इस आशय का सेवा प्रमाण—पत्र जारी किया था कि अपीलार्थी ने दिनांक 24.11.88 से दिनांक 20.6.94 तक सेवा की है। श्रम न्यायालय ने उभयपक्ष की सुनवाई के बाद यह अवधारित किया कि अपीलार्थी "कर्मकार" था तथा दैनिक वेतन भोगी के रूप में नियुक्त था। श्रम न्यायालय ने यह भी अवधारित किया कि सहायक अधिकारी अभियन्ता द्वारा दिनांक 24.11.88 से दिनांक 20.6.94 तक की अवैधि में के लिए कार्य प्रमाण—पत्र को अविश्वास करने का कोई कारण नहीं था एवं उक्त प्रमाण—पत्र को साक्ष्य से प्रमाणित माना। श्रम न्यायालय ने यह भी पाया कि विपक्ष ने महत्वपूर्ण साक्ष्य को दबाया। श्रम न्यायालय ने 50 प्रतिशत विगत वेतन के साथ अपीलार्थी को सेवा में पुनर्स्थापित करने का निर्देश दिया जिसके विरुद्ध रिट याचिका माननीय उच्च न्यायालय द्वारा निरस्त की गयी। रिट याचिका में निर्णय के विरुद्ध रिट अपील में माननीय उच्च न्यायालय की खण्डपीठ ने अपील स्वीकार की और यह अवधारित किया कि पत्रावली पर कोई साक्ष्य नहीं था कि सेवा का

प्रमाण—पत्र सहायक अधिशासी अभियन्ता द्वारा जारी किया गया था तथा विभाग द्वारा प्रस्तुत रिकार्ड से यह जाहिर हुआ था कि कार्य प्रमाण—पत्र एक जालसाजी से तैयार किया गया अभिलेख था तथा प्रमाण—पत्र में कहीं उल्लेख नहीं था कि 240 दिन की सेवा लगातार की गयी। माननीय खण्डपीठ ने यह भी पाया कि अपीलार्थी द्वारा नियुक्ति पत्र एवं सेवा समाप्ति का पत्र तथा वेतन प्रमाण—पत्र भी नहीं प्रस्तुत किया गया था। माननीय खण्डपीठ ने यह भी पाया कि अपीलार्थी के एक साक्षी के रूप में अपने कथन के अतिरिक्त उसके कथन को समर्थित करने का कोई साक्ष्य पत्रावली पर नहीं था। माननीय उच्च न्यायालय की खण्डपीठ के निर्णय के विरुद्ध अपील माननीय सर्वोच्च न्यायालय ने स्वीकार की तथा सहायक अधिशासी अभियन्ता द्वारा अपीलार्थी की सेवा के सम्बन्ध में प्रस्तुत प्रमाण—पत्र को श्रम न्यायालय द्वारा विश्वसनीय मानने के निश्कर्ष की पुष्टि की। यह भी अवधारित किया कि प्रमाण—पत्र को न मानने के सम्बन्ध में माननीय खण्डपीठ ने कोई कारण नहीं दिया है। उक्त दृष्टान्त से श्री वीरेन्द्र सिंह को मामले में कोई मदद नहीं मिलती क्योंकि वीरेन्द्र सिंह की दिनांक 15.11.99 को प्रारम्भिक नियुक्ति एवं तत्सम्बन्धित वेतन तथा पुनः 10.12.2001 को चयन के आधार पर अस्थायी चालक के पद पर नियुक्ति एवं तत्सम्बन्धित वेतन के कथन का पत्रावली पर न कोई साक्ष्य है न समर्थन साक्ष्य है जबकि आर.एम.येल्लाटी के मामले में सेवा का प्रमाण—पत्र स्वयं सक्षम अधिकारी द्वारा प्रदत्त था जिसे रिकार्ड से साबित पाया गया। अतः मेरी राय में आर.एम.येल्लाटी के मामले से प्रार्थी वीरेन्द्र सिंह के मामले में कोई मदद नहीं मिलती है।

40. 2005—2006 एस.सी.एल.जे. पृष्ठ 1323, दिव्यान्श पण्डित बनाम प्रबन्धन एन.सी.सी.बी.एम. के मामले में दी गयी विधि व्यवस्था कर्मकार के विरुद्ध जॉच रिपोर्ट न्यायाधिकरण द्वारा अनुचित एवं विधि विरुद्ध पाये जाने की दशा में विपक्ष को कर्मकार के विरुद्ध दोष साबित करने के लिए अतिरिक्त साक्ष्य प्रस्तुत करने हेतु अवसर देने की न्यायाधिकरण की अधिकारिता से सम्बन्धित है।

41. दृष्टान्त में प्रदत्त विधि व्यवस्था के अनुसार यदि कर्मकार के विरुद्ध जॉच रिपोर्ट अनुचित पायी गयी है और प्रबन्धन द्वारा बादोत्तर में दोष साबित करने के लिए अतिरिक्त साक्ष्य प्रस्तुत करने की प्रार्थना नहीं भी की गयी है फिर भी ऐसी स्थिति न्यायाधिकरण की अधिकारिता पर अतिरिक्त साक्ष्य प्रस्तुत करने हेतु अनुमति प्रदान करने पर कोई प्रतिबन्ध नहीं है। निर्णय के पैरा 9 में माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है, “9.....It is true no doubt that the respondent may not have made any prayer for (sic submitting) additional evidence in its written statement but, as held by this Court in Karnataka S.R.T.C. v. Laxmidevamma this did not place a fetter in the powers of the Court/Tribunal to require or permit parties to lead additional evidence including production of document at any stage of proceedings before they are concluded. Once the Labour Court came to the finding that the enquiry was non est, the facts of the case warranted that the Labour Court should have given one opportunity to the respondent to establish the charges before passing an award in favour of the workman.”

42. दिव्यान्श पण्डित बनाम प्रबन्धन एन.सी.सी.बी.एम. के मामले में माननीय सर्वोच्च न्यायालय ने यह व्यवस्था दी है कि जॉच आख्या अशुद्ध एवं विधि विरुद्ध पाये जाने की दशा में विपक्ष को पुनः कर्मकार के विरुद्ध आरोप सिद्ध करने के लिए अतिरिक्त साक्ष्य प्रस्तुत करने का अवसर न्यायाधिकरण द्वारा दिया जा सकता है। वर्तमान प्रकरण में उक्त दृष्टान्त से याची पक्ष को कोई मदद नहीं मिलती है।

43. 2005 लैब.आई.सी. 2279 (सर्वोच्च न्यायालय), बैंक ऑफ बडौदा—अपीलार्थी बनाम घेमारभाई हरजीबाई रबड़ी—प्रत्यार्थी के मामले में प्रत्यर्थी ने केन्द्रीय औद्योगिक न्यायाधिकरण अहमदाबाद के समक्ष यह दावा प्रस्तुत किया कि वह अपीलार्थी बैंक में 1500 रुपये मासिक वेतन पर चालक के पद पर नियुक्त था तथा बैंक की उस कार को चलाता था जो बैंक के अधिकारी श्री मेनन को आवंटित थी। उसने जून 1994 से अक्टूबर 1995 तक कार्य किया एवं उसकी सेवायें बिना किसी क्षतिपूर्ति की अदायगी किये धारा 25—एफ, धारा 25—जी एवं धारा 25—एच औद्योगिक विवाद अधिनियम के उल्लंघन में विधि विरुद्ध समाप्त कर दी गयी। याची ने समर्पण विगत वेतन के साथ सेवा में पुनर्स्थापना की याचना की। बैंक ने प्रत्यर्थी के बैंक की सेवा में होने से इन्कार किया। बैंक ने यह कथन प्रस्तुत किया कि बैंक की स्कीम के अनुसार कुछ अधिकारीयों को एक कार बैंक ने आवंटित किया परन्तु कार के लिए चालक की सुविधा नहीं दी तथा आवंटित कार पर चालक रखने की जिम्मेदारी सम्बन्धित अधिकारी की है। यह भी कहा गया कि सम्बन्धित अधिकारी के स्थानान्तरण या सेवानिवृत्ति पर सम्बन्धित चालक की सेवा स्वतः समाप्त हो जाती है। इस प्रकार चालक बैंक का कर्मचारी नहीं था। बैंक ने यह स्वीकार किया कि जो भुगतान 1500 रुपये मासिक अधिकारी ने चालक को किया उसकी प्रतिपूर्ति बैंक द्वारा अधिकारी को की जाती है। बैंक के कथनानुसार यह योजना कई राष्ट्रीयकृत बैंकों में लागू है एवं ऐसे वाहनों के चालक सम्बन्धित अधिकारी के वैयक्तित्व कर्मचारी हैं। न्यायाधिकरण ने यह पाया कि प्रार्थी द्वारा प्रस्तुत भुगतान वाउचर से यह जाहिर था कि उसे 1500 रुपये भुगतान वेतन के मद में किया गया था तथा उसने यह भी साबित किया था कि उसने लगातार दिनांक 17.7.1994 से 10.10.95 तक सेवा की थी। न्यायाधिकरण ने यह भी पाया कि बैंक ने ऐसी कोई सामग्री न्यायाधिकरण के समक्ष नहीं प्रस्तुत की जिससे उनकी योजना साबित हो सके जिसके सम्बन्ध में उन्होंने कहा था कि उनकी योजना के अन्तर्गत बैंक अधिकारी को चालकरहित कार आवंटित होती है और यदि अधिकारी कोई चालक रखता है तो उसकी प्रतिपूर्ति बैंक द्वारा अधिकारी को की जाती है तथा अधिकारी के स्थानान्तरण अथवा सेवानिवृत्ति के साथ चालक की सेवा स्वतः समाप्त हो जाती है। कर्मकार द्वारा प्रस्तुत भुगतान वाउचर के विरुद्ध भी बैंक द्वारा कोई खण्डन प्रस्तुत नहीं था अतः अधिकरण ने पंचाट कर्मकार के पक्ष में पारित किया जिसके विरुद्ध अपीलार्थी बैंक की चुनौती माननीय एकलपीठ एवं खण्डपीठ के समक्ष असफल हुई। माननीय खण्डपीठ के निर्णय के विरुद्ध अपील माननीय सर्वोच्च न्यायालय ने खारिज की। माननीय सर्वोच्च न्यायालय ने यह अवधारित किया कि कर्मकार द्वारा चालक के रूप में लगातार 240 दिन कार्य करने के तथ्य को बैंक द्वारा इन्कार नहीं किया गया है और बैंक द्वारा बतायी गयी योजना को साबित करने के लिए कोई साक्षी नहीं प्रस्तुत किया गया था। प्रस्तुत दृष्टान्त से याची को कोई मदद इसलिए नहीं मिलती क्योंकि उद्दृत दृष्टान्त में कर्मकार को विपक्ष ने अपने अधिकारी का चालक होना स्वीकार किया था तथा 240 दिन चालक के रूप में कार्य किये गये कार्य का खण्डन

बैंक ने प्रस्तुत नहीं किया था तथा केवल अपना कर्मचारी होना इन्कार किया था। बैंक ने बचाव में प्रस्तुत स्कीम को भी साबित नहीं किया था। वीरेन्द्र सिंह के मामले में उन्होंने लगातार 240 दिन कार्य करने के तथ्य को साबित नहीं किया है और न ही चालक के रूप में नियुक्त साबित की है अतः उद्वृत दृष्टान्त से प्रार्थी को कोई लाभ नहीं मिलता है।

44. वर्तमान मामले के तथ्य एवं परिस्थितियों को दृष्टिगत रख यह स्पष्ट है कि माननीय सर्वोच्च न्यायालय द्वारा 2006 सुप्रीम कोर्ट (एल.एण्ड एस.), 38, सुरेन्द्र नगर जिला पंचायत – अपीलार्थी बनाम दह्याभाई अमर सिंह – प्रत्यर्थी में दी गयी विधि व्यवस्था वर्तमान मामले में लागू होती है। प्रार्थी पक्ष द्वारा सेवा समाप्ति की तिथि के पूर्व लगातार 240 दिन कार्य करने के तथ्य को साबित नहीं किया गया है, अतः धारा 25 एफ औद्योगिक विवाद अधिनियम के प्राविधान प्रार्थी के मामले में आकर्षित नहीं होते हैं। प्रार्थी धारा 25 जी एवं धारा 25 एच की सुरक्षा अथवा अनुपालन पाने का भी अधिकारी नहीं है।

45. पक्षकारों के अभिवचनों तथा उनके समर्थन में उभयपक्ष द्वारा प्रस्तुत साक्ष्य तथा सम्बन्धित तथ्य एवं परिस्थितियों के सम्यक् अवलोकन एवं विश्लेषण तथा 2006 सुप्रीम कोर्ट (एल.एण्ड एस.), 38, सुरेन्द्र नगर जिला पंचायत – अपीलार्थी बनाम दह्याभाई अमर सिंह – प्रत्यर्थी में दी गयी विधि व्यवस्था को दृष्टिगत रखते हुए मैं इस निष्कर्ष पर हूँ कि प्रार्थी पक्ष सेवासमाप्ति की तिथि के ठीक पूर्व एक कलैण्डर वर्ष में 240 दिन नियमित सेवा करने के तथ्य को सिद्ध करने में असफल हैं। प्रार्थी इस तथ्य को भी सिद्ध करने में असफल है कि प्रबन्धन द्वारा चालक के रूप में उसे सेवा में एम.आई.रोड, ब्रान्च जयपुर में दिनांक 15.11.99 से नियोजित किया गया। प्रार्थी इस तथ्य को सिद्ध करने में सफल है कि उसका चयन अस्थायी चालक के रूप में विपक्षीगण द्वारा साक्षात्कार के पश्चात दिनांक 10.12.2001 को किया गया परन्तु यह तथ्य सिद्ध नहीं कर सका है कि सक्षम प्राधिकारी द्वारा उसे नियुक्ति की स्वीकृति दी गयी। प्रार्थी पक्ष इस तथ्य को सिद्ध करने में असफल है कि साक्षात्कार के पश्चात उसे नियमित चालक के पद पर बैंक प्रबन्धन द्वारा पुनः दिनांक 10.12.2001 को नियोजित किया गया और उसने दिनांक 7.11.2006 तक कार्य किया, तदनुसार प्रार्थी याचित अनुत्तोश पाने का हकदार नहीं है एवं उसकी सेवासमाप्ति विधिक एवं न्यायसंगत है। प्रार्थी की स्टेटमेन्ट आफ क्लेम खारिज होने योग्य है एवं तदनुसार खारिज की जाती है। न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 17 जून, 2016

का.आ. 1273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स पंजाब एंड सिंध बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 52/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.06.2016 को प्राप्त हुआ था।

[सं. एल-12011/40/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of M/s. Punjab and Sind Bank and their workmen, received by the Central Government on 16.06.2016.

[No. L-12011/40/2013-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT :

RAKESH KUMAR, Presiding Officer

I.D. No. 52/2013

Ref. No. L-12011/40/2013-IR(B-II) dated 12.07.2013

BETWEEN :

Sri M.K. Sachan
Organising Secretary,
U.P. Bank Employees Union
C/o Punjab & Sind Bank
LDA Colony, Kanpur Road, Alambagh
Lucknow

AND

1. The Chairman & Managing Director,
Punjab & Sind Bank,
21, Rajinder Place
New Delhi
2. The Zonal Manager
Punjab & Sind Bank, Zonal Office
Lalbagh
Lucknow

AWARD

1 By order No. L-12011/40/2013-IR(B-II) dated 12.07.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri M.K. Sachan Organizing Secretary, UP Bank Employees Union, Punjab & Sind Bank, Lucknow and the Chairman & Managing Director/Zonal Manager, New Delhi/Lucknow for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF PUNJAB AND SIND BANK, LUCKNOW IN IMPOSING THE PUNISHMENT TO SRI B.K.MATHUR VIDE ORDER DATED 31.03.2012 IS LEGAL AND JUSTIFIED? WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

3. After being registered referred I.D, notices were issued to both the parties. Representative of the workman union appeared before my learned predecessor, the then Hon'ble Judge, and authority was also filed on 11.11.2013. Since then more than 16 dates have been fixed by this court, but no claim statement was filed. In the interest of justice, notices through registered post were again issued on my directions, yet none appeared for the workman. Learned AR Sri P.K. Tewari for the management appeared in the court, on several dates.

4. Since no claim statement was filed despite sufficient opportunity, the court preferred to hear learned AR for the management Sri P.K. Tewari.

5. Arguments were advanced by the opposite party. Learned AR Sri PK Tewari submitted that the bank management always follows the rules, and impugned order referred in the schedule is legal and fully justified.

6. After having heard the learned AR for the bank management Sri P.K. Tewari, and perusal of the file, it is inferred that by non-filing of any claim statement by the workman/union, it seems that either the workman is satisfied with the impugned order or he does not intend to further proceed with the case. In such circumstances, there is no reason to disagree with the prudent submissions made by learned AR for the opposite party Sri P.K. Tewari. Accordingly, the workman is not entitled to any relief.

7. Award accordingly.

LUCKNOW

25.04.2016

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 17 जून, 2016

का.आ. 1274.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स पंजाब एंड सिध बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 53/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.06.2016 को प्राप्त हुआ था।

[सं. एल-12012/48/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th June, 2016

S.O. 1274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of M/s. Punjab and Sind Bank and their workmen, received by the Central Government on 16.06.2016.

[No. L-12012/48/2013-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT :

RAKESH KUMAR, Presiding Officer

I.D. No. 52/2013

Ref.No. L-12012/48/2013-IR(B-II) dated 10.07.2013

BETWEEN :

Sri M.K. Sachan
 Organising Secretary,
 U.P. Bank Employees Union
 C/o Punjab & Sind Bank
 LDA Colony, Kanpur Road, Alambagh
 Lucknow

AND

1. The General Manager (P),
 Punjab & Sind Bank,
 21, Rajinder Place
 New Delhi
2. The Zonal Manager
 Punjab & Sind Bank, Zonal Office
 Lalbagh
 Lucknow

AWARD

1. By order No. L-12012/48/2013-IR(B-II) dated 10.07.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri M.K. Sachan Organizing Secretary, UP Bank Employees Union, Punjab & Sind Bank, Lucknow and the General Manager (P)/Zonal Manager, New Delhi/Lucknow for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF PUNJAB & SIND BANK, LUCKNOW IN IMPOSING THE PUNISHMENT OF TRANSFERRING TO SRI M.K.SACHAN IS LEGAL AND JUSTIFIED? WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

3. After being registered referred I.D, notices were issued to both the parties. Representative of the workman union appeared before my learned predecessor, the then hon'ble Judge on 11.11.2013. Since then more than 16 dates have been fixed by this court, but no claim statement was filed. In the interest of justice, notices through registered post were again issued on my directions, yet none appeared for the workman. Learned AR Sri P.K. Tewari for the management appeared in the court, on several dates.

4. Since no claim statement was filed despite sufficient opportunity, the court preferred to hear learned AR for the management Sri P.K. Tewari.

5. Arguments were advanced by the opposite party. Learned AR Sri PK Tewari submitted that the bank management always follows the rules, and impugned order referred in the schedule is legal and fully justified.

6. After having heard the learned AR for the bank management Sri P.K. Tewari, and perusal of the file, it is inferred that by non-filing of any claim statement by the workman/union, it seems that either the workman is satisfied with the impugned order or he does not intend to further proceed with the case. In such circumstances, there is no reason to disagree with the prudent submissions made by learned AR for the opposite party Sri P.K. Tewari. Accordingly, the workman is not entitled to any relief.

7. Award accordingly.

LUCKNOW

25.04.2016

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1275.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल इंस्टिट्यूट ऑफ फिशरीज नॉटिकल एंड इंजीनियरिंग ट्रेनिंग (सिफनेट) के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ सं. 35/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.06.2016 को प्राप्त हुआ था।

[सं. एल-42012/91/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 20th June, 2016

S.O. 1275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 35/ 2014) of the Central Government Industrial Tribunal-Cum-Labour-Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the CIFNET, Cochin and their workmen, which was received by the Central Government on 20.06.2016.

[No. L-42012/91/2014-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri. K. Sasidharan, B. Sc., LLB, Presiding Officer

(Monday the 30th day of May, 2016/09th Jyaistha, 1938)

ID No. 35/2014

Workmen : Shri. V. N. Kalesan & 5 others,

Net Makers, CIFNET,

COCHIN – 682016

By Adv. Shri. T. Niklavu

Management : The Director,

CIFNET,

Fine Arts Avenue,

COCHIN - 682016

By Advs. Shri. N. Nagaresh &

Shri C. Anil Kumar

This case coming up for final hearing on 19.05.2016 and this Tribunal-cum-Labour Court on 30.05.2016 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) the Central Government referred the following dispute before this Tribunal for adjudication.

2. The dispute referred for adjudication before this Tribunal is:

“Whether the action of the management of ‘central institute of fisheries nautical and engineering training (CIFNET)’ in denying promotion to shri V. N Kalesan and 5 others by passing their seniority is correct? if not, what relief the workman are entitled to get?”

3. After the receipt of reference Order No.L-42012/91/2014-IR(DU) dated 25.07.2014, issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear and answer all material questions relating to the dispute and produce documents to substantiate their respective contentions. On receipt of the summons the parties entered appearance through counsel and submitted their pleadings.

4. The contentions in the claim statement filed by the workmen in brief are as follows:

The workmen were selected and appointed as net-menders in IFP – Integrated Fisheries Project (now known as National Institute of Fisheries Post, Harvest Technology and Training – NIFPHATT) from the year 1977 and 1978. In the year 1994 their designation was changed from net-mender to net maker. They continued in the same post and same scale of pay.

5. They were not promoted to the post of Net Making Superior even after completing 34 years of unblemished service as net maker. Even though they are eligible for promotion as per the existing rules they continue in the same post ever since the date of their appointment.

6. While the workmen were in the IFP, all the seven net makers were transferred to CIFNET – Central Institute of Fisheries Nautical Engineering and Training along with this post. The transfer was for the best interest of the management and against the interest of the workmen. The transfer was as per order No.5-16/2002-Fy. Admn.(T5)(1) dated 19.05.2005 issued by the Ministry of Agriculture. The workmen joined CIFNET in the year 2005. The post of net making supervisor was also transferred to CIFNET. The post of net making supervisor now available in CIFNET is the one transferred from IFP. For the net makers transferred from NIFPHATT (formerly IFP), as per the present recruitment rules, net making supervisor is the next promotional avenue.

7. When the conciliation proceedings were pending before the Assistant Labour Commissioner(C), Kakkadu, the Director of IFP submitted a statement dated 04.10.2013 to the effect that the post of net making supervisor was also transferred to CIFNET and the post of net making supervisor be filled up by transfer, failing which by direct recruitment. As per the recruitment rules the workmen who were formerly in IFP are eligible for promotion to the post of net making supervisor. The incumbent working as net making supervisor retired from service on 30.04.2010. As per the recruitment rules the senior most net maker ought to have been promoted to that post. The management did not accept the representation for promotion submitted by the workmen. They informed that steps are being taken for amending the recruitment rules. Their intention is to deprive the right of workmen from getting the legitimate promotion. Their action is unjust, unfair and against all accepted norms. The decision of the management to amend the recruitment rules is detrimental to the interest of the workmen. Their action is in violation of Article 14 of the Constitution of India.

8. Therefore the workmen have requested to pass an order directing the management to grant promotion to them as net making supervisor in accordance with their seniority in the existing vacancy with all benefits thereof and to direct the management not to amend the recruitment rules.

9. The contentions in the written statement filed by the management in brief are as follows:

The dispute referred for adjudication is not maintainable in law or on facts. The management is a subordinate office functioning under the department of Animal Husbandry, Dairying & Fisheries under the Ministry of Agriculture, Government of India. The management institute is established to meet the statutory manning requirements of deep sea vessels as provided in the Merchant Shipping Act (1958) and for developing the required technical manpower for supporting shore establishments and for effective operation of shipping vessel. The management is not engaged in any industrial or commercial activity. The employees of the management are civilian employees and they are governed by the Central Civil Services(Classification, Control and Appeal) Rules, 1965. They will not come under the purview of the Industrial Disputes Act. The workmen who raised the dispute cannot invoke the provisions of the Industrial Disputes Act. They are not workmen as defined under Section 2(s) of the Industrial Disputes Act, 1947.

10. The workmen involved in this reference raised the dispute in their individual capacity and not as part of collective bargaining. They do not constitute a substantial number so as to raise an industrial dispute against the management. Altogether 163 employees are working in CIFNET. The dispute is raised by five workmen only.

11. The workmen herein initially worked in National Institute of Fisheries Post Harvest Technology & Training (NIFPHATT), Kochi-16 (formerly known as Integrated Fisheries Project). As per order No.5-16/2002-Fy.(T.5)(III) dated 19.05.2005 they were transferred to CIFNET. Among them Shri. V. N. Kalesan, Shri. A. T. Antony and Shri. K. J. Vincent were retired from service on attaining the age of superannuation and the rest of them are even now in service. Since this reference is pertaining to the claim for promotion, the dispute raised by the workmen who are not in service cannot be adjudicated by this Court.

12. Consequent to Order No.5-16/2002-Fy.(T.5)(III) dated 19.05.2005 the post of net makers in NIFPHATT were transferred to CIFNET and the workmen joined CIFNET in the year 2005. On transfer and reporting at the management institute the workmen are governed by the recruitment rules as applicable to the management. The vacant posts whether to be filled by direct recruitment or on promotion is on the basis of the recruitment rules in force for the management institute.

13. As per the recruitment rules the promotional channel available to the incumbent is senior net maker in the pay band-1 of `5200-20200/- plus grade pay `1900/- (pre-revised pay scale of `3050-4590/-). As per the recruitment rules, for the post of net making supervisor applicable to CIFNET, the post of senior net maker is only a feeder category for promotion to the post of net making supervisor.

14. Being the senior most in the feeder grade in the post of net maker at CIFNET, Shri. V. N. Kalesan was considered and given promotion to the post of senior net maker as per order No.13-45/09-Adm. dated 27.07.2010. He refused the promotion due to personal reason. Hence his promotion has been cancelled as per office order No.13-45/2009-Adm. dated 26.08.2010.

15. All the recruitment rules are scrutinized by the Administrative Ministry, Department of Personnel & Training and Department of Legal Affairs. The recruitment rule for the post of net making supervisor was framed after considering the representations of the workmen and after the approval of the competent authorities. There was no unfair attempt or arbitrary decision on the part of the institute or violation of Article 14 of the Constitution of India. Therefore the claim of workmen is not sustainable in law. The management has requested to uphold their contentions.

16. After filing written statement by the management the workmen filed rejoinder reiterating the contentions in the claim statement.

17. The learned counsel for the management requested to consider the question regarding the maintainability of the ID as a preliminary point. Hence that aspect was considered as the preliminary point. As per the order dated 31.03.2016 the preliminary point is answered to the effect that the claim by the persons involved in this reference is not maintainable under the Industrial Disputes Act. A copy of the preliminary order is attached along with this award. Thereafter the ID was posted for final hearing and the counsel for both side were heard.

18. The point arising for consideration is:

“Whether the workmen involved in this reference is entitled to any relief?”

The point:

19. The dispute referred for adjudication before this Court is:

“Whether the action of the management of ‘central institute of fisheries nautical and engineering training (CIFNET)’ in denying promotion to shri V. N Kalesan and 5 others by passing their seniority is correct? If not, what relief the workman are entitled to get?”

20. The contention of the workmen involved in this reference is that even though they had 34 years of unblemished service as net maker under the management, they were not promoted to the post of net making supervisor. It is stated that they continue in the same post ever since the date of their appointment. Originally they were working as net menders under Integrated Fisheries Project (IFP). In the year 1994 their designation was changed to net maker. While so they were transferred to CIFNET along with their post as per order No.5-16/2002-Fy. (T.5) (III) dated 19.05.2005.

21. According to the workmen, as per the recruitment rules they are eligible for promotion to the post of net making supervisor. The workmen have stated that the management is trying to amend the recruitment rules so as to deny their scope for promotion. Therefore they have raised this dispute.

22. The management has contended that the claim by the workman is not maintainable in law and on facts. It is stated that the management is a subordinate office, functioning under the Department of Animal Husbandry, Dairying & Fisheries, under the Ministry of Agriculture, Government of India. It is stated that the management is not engaged in any industrial or commercial activity and that the employees of the management are civilian employees and they are governed by the CCS(CC&A) Rules, 1965. According to the management the persons who raised this dispute are not “workmen” as defined under Section 2(s) of the Industrial Disputes Act, 1947.

23. The learned counsel for the management submitted that the workmen are civilian employees and they are governed by the CCS(CC&A) Rules, 1965. It is also submitted that all the recruitment rules are scrutinized by the Administrative Ministry, Department of Personnel & Training and Department of Legal Affairs. Document No.6, produced by the management is copy of the notification GSR 8 dated 02.01.2012 published in the Government of India Gazette dated 07.01.2012. Document No.7, produced by the management is the copy of letter No.8-5/2013-Adm dated 11.12.2013 issued by the Director, CIFNET to the Asst. Labour Commissioner(Central), Kochi with relevant portion of

CCS(CCA) Rules, 1965. Those documents reveal that CIFNET is a subordinate office under the Union Ministry of Agriculture, Department of Animal Husbandry Dairying and Fisheries and that the employees of the Institute are civilian employees and they are governed by the CCS(CC&A) Rules, 1965. Even as per the admission of the persons involved in this reference, they are working under the Ministry of Agriculture and that they were transferred from the IFP to CIFNET and they took charge in CIFNET as per the order No.5-16/2002-Fy. (T.5)(III) dated 19.05.2005.

24. The essential condition of a person being a workman within the terms of the definition is that he should be employed to do the work in that industry and that there should be, in other words, an employment of that person by the employer and that there should be master and servant relationship between them. Unless a person is thus employed there can be no question of his being a 'workman' within the definition of the term as contained in the Act.

25. The fact that the persons who raised this dispute are working under CIFNET which is under the Ministry of Agriculture is admitted by them. CIFNET is not a commercial or industrial establishment. Moreover the persons involved in this reference are governed by the CCS(CC&A) Rules, 1965. In such circumstance the persons involved in this reference will not come under the purview of Section 2(s) of the Industrial Disputes Act, 1947. Therefore they are not entitled to the relief as per this reference. The point for consideration is answered accordingly.

26. In view of the finding on the point for consideration an award is passed holding that the workmen involved in this reference are not entitled to any relief as claimed.

The award will come into force within one month from the date of its publication in the Official Gazette.

Pronounced by me in open Court on this the 30th day of May, 2016.

SASIDHARAN K., Presiding Officer

APPENDIX - NIL

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri. K. Sasidharan, B. Sc., LLB, Presiding Officer

(Thursday the 31st day of March, 2016/11th Chaitra, 1937)

ID No. 35/2014

Workmen	:	Shri. V. N. Kalesan & 5 others, Net Makers, CIFNET, COCHIN – 682016 By Adv. Shri. T. Niklavu
Management	:	The Director, CIFNET, Fine Arts Avenue, COCHIN - 682016 By Advs. Shri. N. Nagaresh & Shri C. Anil Kumar

This case coming up for final hearing on 29.03.2016 and this Tribunal-cum- Labour Court on 31.03.2016 passed the following:

PRELIMINARY ORDER

This is a reference made under Section 10(1)(d) of the Industrial Disputes Act, 1947 (14 of 1947).

2. The dispute referred for adjudication before this Tribunal is:

"Whether the action of the management of 'central institute of fisheries nautical and engineering training (CIFNET)' in denying promotion to shri V. N Kalesan and 5 others by passing their seniority is correct? If not, what relief the workman are entitled to get?"

3. After the receipt of reference Order No.L-420 12/91/20 14-IR(DU) dated- 25.07.2014, issued by the Ministry of Labour, Government of India, summons was issued to the parties to appear and answer all material questions relating to the dispute and produce documents to substantiate their respective contentions. On receipt of the summons the parties entered appearance through counsel and submitted their pleadings.

4. Workman no.1 filed claim statement on his behalf and on behalf of the other five workmen. The contentions in the claim statement filed by the workmen in brief are as follows :

The workmen were not promoted to the post of Net Making Superior even after completing 34 years of unblemished service as net maker. Even though they are eligible for promotion as per the existing rules they continue in the same post ever since the date of their appointment.

5. The workmen were selected and appointed as net-menders in IFP (now known as National Institute of Fisheries Post, Harvest Technology and Training - NIFPHTT) from 1977 and 1978 onwards. In the year 1994 their designation was changed from net-mender to net maker. They continued in the same post and same scale of pay.

6. While the workmen were in the IFP, all the seven net makers were transferred to CIFNET along with this post. The transfer was for the best interest of the management and against the interest of the workmen. The transfer was as per order No.5-16/2002-Fy. Admn.(T5)(I) dated 19.05.2005 issued by the Ministry of Agriculture. The workmen joined CIFNET in the year 2005. The post net making supervisor was also transferred to CIFNET. The post of net making supervisor now available in CIFNET is the one transferred from IFP. For the net makers transferred from NIFPHTT (formerly IFP), as per the present recruitment rules, net making supervisor is the next promotional avenue.

7. When the conciliation proceedings were pending before the Assistant Labour Commissioner (C), Kakkadu, the Director of IFP submitted a statement dated 04.10.2013 to the effect that the post of net making supervisor was also transferred to CIFNET and the post of net making supervisor be filled up by transfer, failing which by direct recruitment. As per the recruitment rules the workmen who were formerly in IFP are eligible for promotion to the post of net making supervisor. The incumbent working as net making supervisor retired from service on 30.04.2010. As per the recruitment rules the senior most net maker ought to have been promoted to that post. The management did not accept the representation for promotion submitted by the workmen. They informed that steps are being taken for amending the recruitment rules. Their intention is to deprive the right of workmen from getting the legitimate promotion. Their action is unjust, unfair and against all accepted norms. The decision of the management to amend the recruitment rules is detrimental to the interest of the workmen. Their action is violative of Article 14 of the Constitution of India.

8. The workmen have requested to pass an order directing the management to grant promotion to them as net making supervisor in accordance with their seniority in the existing vacancy with all benefits thereof and to direct them not to amend the recruitment rules.

9. The contentions in the written statement filed by the management in brief are as follows:

The dispute referred for adjudication is not maintainable either in law or on facts. The management is a subordinate office functioning under the department of Animal Husbandry, Dairying & Fisheries under the Ministry of Agriculture, Government of India. The management institute is established to meet the statutory manning requirements of deep sea vessels as provided in the Merchant Shipping Act (1958) and for developing the required technical manpower for supporting shore establishments and for effective operation of shipping vessel. The management is not engaged in any industrial or commercial activity. The employees of the management are civilian employees and they are governed by the CCS(CCA) Rule, 1965. They will not come under the purview of the Industrial Disputes Act. The workmen who raised the dispute cannot invoke the provisions of the Industrial Disputes Act. They are not workmen as defined under Section 2(s) of the Industrial Disputes Act, 1947.

10. The workmen involved in this reference raised the dispute in their individual capacity and not as part of collective bargaining. The workmen involved in this reference will not constitute a substantial number so as to raise an industrial dispute against the management. 163 employees are working in CIFNET. The present dispute is raised by five workmen.

11. The workmen herein initially worked in National Institute of Fisheries Post Harvest Technology & Training (NIFPHTT), Kochi-16 (formerly known as Integrated Fisheries Project). As per order No.5-16/2002-Fy.(T.5)(III) dated 19.05.2005 they were transferred to CIFNET. Among them Shri. V. N. Kalesan, Shri. A. T. Antony and Shri. K. J. Vincent were retired from service on attaining the age of superannuation and the rest of them are even now in service. Since this reference is pertaining to the claim for promotion, the dispute raised by the workmen who are not in service cannot be adjudicated by this Court.

12. Consequent to Order No.5-16/2002-Fy.(T.5)(III) dated 19.05.2005 the post of net makers in NIFPHTT were transferred to CIFNET and the workmen joined CIFNET in the year 2005. On transfer and reporting at the management institute the workmen are governed by the recruitment rules as applicable to the management. The vacant posts whether to be filled by direct recruitment or on promotion is on the basis of the recruitment rules in force for the management institute.

13. As per the recruitment rules the promotional channel available to the incumbent is senior net maker in the pay band-1 of ₹5200-20200/- plus grade pay ₹1900/- (pre-revised pay scale of ₹3050-4590/-). As per the recruitment rules,

for the post of net making supervisor applicable to CIFNET, the post of senior net maker is only a feeder category for promotion to the post of net making supervisor.

14. Being the senior most in the feeder grade the post of net maker at CIFNET, Shri. V. N. Kalesan was considered and given promotion to the post of senior net maker as per order No. 13-45/09-Adm. dated 27.07.2010. He refused the promotion due to personal reason. Hence his promotion has been cancelled as per office order No. 13-45/2009-Adm. dated 26.08.2010.

15. All the recruitment rules are scrutinized by the Administrative Ministry, Department of Personnel & Training and Department of Legal Affairs. The recruitment rules for the post of net making supervisor was framed after considering the representations of the workmen and after the approval of the competent authorities. There was no unfair attempt or arbitrary decision on the part of the institute or violation of Article 14 of the Constitution of India. Therefore the claim of the workmen is not sustainable in law. The management has requested to uphold their contentions.

16. After filing written statement by the management the workmen filed rejoinder reiterating the contentions in the claim statement.

17. As requested by the learned counsel for the management the question regarding the maintainability of this ID was considered as the preliminary point. Heard the counsel for both side on this aspect.

18. The point for consideration is:

“Whether the claim by the workmen in this ID is maintainable in law?”

The point:

19. The dispute referred for adjudication before this Court is :

“Whether the action of the management of ‘central institute of fisheries nautical and engineering training (CIFNET)’ in denying promotion to Shri V.N. Kalesan and 5 others by passing their seniority is correct? If not, what relief the workman are entitled to get?”

20. The contention of the workmen involved in this reference is that even though they had 34 years of unblemished service as net maker under the management, they were not promoted to the post of net making supervisor. It is stated that they continue in the same post ever since the date of their appointment. Originally they were working as net menders under Integrated Fisheries Project (IFP). In the year 1994 their designation was changed to net maker. While so they were transferred to CIFNET along with their post as per order No.5-16/2002-Fy. (T.5) (III) dated 19.05.2005.

21. According to the workmen, as per the recruitment rules they are eligible for promotion to the post of net making supervisor. The workmen have stated that they were denied the opportunity for promotion. It is stated that the management is trying to amend the recruitment rules so as to deny their promotional avenue. Therefore they have raised this dispute.

22. The management has contended that the claim by the workman is not maintainable in law and on facts. It is stated that the management is a subordinate office, functioning under the Department of Animal Husbandry, Dairying & Fisheries, under the Ministry of Agriculture, Government of India. It is further stated that the management is not engaged in any industrial or commercial activity and that the employees of the management are civilian employees and they are governed by the CCS(CCA) Rules, 1965. According to the management the persons who raised this dispute will not come under the purview of the Industrial Disputes Act. They have stated that the persons involved in this reference are not “workmen” as defined under Section 2(s) of the Industrial Disputes Act, 1947.

23. The learned counsel for the management submitted that the workmen are civilian employees and they are governed by the CCS(CCA) Rules, 1965. It is also submitted that all the recruitment rules are scrutinized by the Administrative Ministry, Department of Personnel & Training and Department of Legal Affairs. Document Nos.6 and 7 produced by the management will reveal this aspect. Even as per the admission of the workmen they are working under the Ministry of Agriculture. They were transferred from the IFP to CIFNBT and they took charge at CIFNET as per the order No.5-16/2002-Fy. (T.5)(III) dated 19.05.2005

24. The essential condition of a person being a workman within the terms of the definition is that he should be employed to do the work in that industry and that there should be, in other words, an employment of that person by the employer and that there should be master and servant relationship between them. Unless a person is thus employed there can be no question of his being a ‘workman’ within the definition of the term as contained in the Act.

25. The fact that the persons who raised this dispute are working under CIFNET which is under the Ministry of Agriculture is admitted by them. CIFNET is not a commercial or industrial establishment. Moreover the persons involved in this reference are governed by the CCS(CCA) Rules, 1965. In such circumstance the persons involved in this reference will not come under the purview of Section 2(s) of the Industrial Disputes Act, 1947. Hence the claim put forward by the persons involved in this reference is not sustainable in law.

Therefore the point for consideration is answered to the effect that the claim by the persons involved in this reference is not maintainable under the Industrial Disputes Act, 1947.

Pronounced by me in open Court on this the 31 st day of March, 2016 .

SASIDHARAN K., Presiding Officer

APPENDIX - NIL

नई दिल्ली, 20 जून, 2016

का.आ. 1276.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सतपुड़ा नर्मदा क्षेत्रीय ग्रामीण बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 46/11) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/05/2011-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/11) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Satpura Narmada Regional Rural Bank and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/05/2011-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR
NO. CGIT/LC/R/46/11

Shri Vidhya Bhushan Tiwari
S/o Late Shri Hari Shankar Tiwari,
R/o Near Nambord School,
Raja Mohalla,
Hoshangabad

...Workman

Versus

Regional Manager,
Satpura Narmada Regional Rural Bank,
Head Office, 800/19,
South Civil Line, Mangalwara,
Hoshangabad

...Management

AWARD

Passed on this 5th day of May 2016

1. As per letter dated 7-6-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/05/2011-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Satpura Gramin Bank in terminating the services of Shri Vidya Bhushan Tiwari w.e.f. 27-10-07 is legal and justified? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim. Case of workman is that he was engaged by Chairman of Kshetriya Gramin Bank Hosohangabad as peon cum scavenger in 1996 in Head Office. His appointment was not as stop gap arrangement. He was appointed on sanctioned vacant post as peon. He rendered his services diligently from 9.30 AM till closing of the Bank. He completed more than 240 days continuous service during each of the calendar year. In order to deny benefit of regular employee, Bank was not

maintaining proper record of his attendance. Workman had requested time and again for his appointment order, payment order, payment voucher, those documents were not supplied to him. All those documents are in possession of 2nd party. Workman submits that he is covered as employee under section 25 B of ID Act as he completed more than 2409 days working days during each of the year. His services are terminated without notice. Retrenchment compensation was not paid to him. Termination of his service is in violation of Section 25-F of ID Act. 2nd party has not followed principles of last come first go, other junior employees were retained in service after his termination. Thereby 2nd party violated Section 25-G,H of ID Act.

3. 2nd party filed Written Statement opposing claim of workman. 2nd party reiterates that workman was not appointed following recruitment rules of the Bank. Workman might have offered his services for few hours as per pertaining contingencies. He was not continuously working. Workman was not appointed against sanctioned vacant post. Claim of workman is allowed, it would amount to back door entry in Bank service. Name of workman was not sponsored through Employment Exchange. He was not interviewed. Provisions of ID Act are not applicable to workman. Appointment order was not issued to the workman. It is denied that his appointment was not by way of stop gap arrangement. 2nd party denies that workman had requested documents about his attendance, payment vouchers any such application was not submitted by workman. It is denied that workman was suddenly retrenched to engage any blue eyed person. It is denied that after termination of workman, other junior persons were retained in service. On such contentions, 2nd party prays that reference be answered in its favour.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Satpura Gramin Bank in terminating the services of Shri Vidya Bhushan Tiwari w.e.f. 27-10-07 is legal and justified?	Both parties failed to participate in reference proceeding, reference could not be decided in merit.
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

5. The terms of reference pertains to legality of termination of services of workman. Workman has alleged termination of his service in violation of Section 25-F, G,H of IDAct. Management has denied all material contentions of the workman. Despite workman was granted repeated time, he failed to adduce evidence in support of his claim. Evidence of workman was closed on 25-5-2015.

6. Management failed to adduce any evidence. Evidence of management is closed on 1-3-2016.

7. As both parties failed to effectively participate in reference proceeding, no evidence is adduced by parties, dispute under reference could not be decided on merit. Accordingly I record my finding in Point No.1.

8. In the result, award is passed as under:-

- (1) As both parties failed to adduce evidence, reference could not be decided on merit.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1277.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार परिचम मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 2/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-41012/55/2005-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of West Central Railway and their workmen, received by the Central Government on 25.05.2016.

[No. L-41012/55/2005-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/2/2007

Shri Ram Lal,
 S/o Shri Dallu Yadav,
 Village Mohali,
 Post Ghatera,
 Distt. Damoh (MP)

... Workman

Versus

Divisional Railway Manager,
 West Central Railway,
 Jabalpur

...Management

AWARD

Passed on this 4th day of February 2016

1. As per letter dated 7-12-2006 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-41012/55/2005-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of DRM, West Central Railway, Jabalpur in terminating the services of Shri Ram Lal S/o Shri Dallu Yadav, Ex-MRCL w.e.f. 18-11-86 is justified? If not, what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/2. Case of Ist party is that he was working as MRCL with 2nd party from 19-5-79 to 18-11-86 in broken period. He completed 240 days service. He acquired temporary status. His services could not be terminated without complying Discipline and Appeal Rules of Railway and giving opportunity to him. His services were terminated without notice, retrenchment compensation was not allowed to him. termination of his service is arbitrary and illegal.

3. Workman further submits after termination of his service, 2nd party management had given assurance to absorb him in another recruitment. His assurance given was false. He was not reinstated in service when 350 ex-card holders have been reinstated in recruitment of the year 2003. On such ground, workman prays for his reinstatement with consequential benefits.

4. 2nd party filed Written Statement at Page 8/1 to 8/6 opposing claim of workman. That workman was discontinued from work in 1986. The dispute was raised in 2005 after long lapse of 18 years is not tenable. Management had refused to make reference as per order dated 31-1-06. Said order was challenged in Writ Petition 10749/06 and as per order passed by Hon'ble High Court, the dispute has been referred by the Government. The dispute is referred after long lapse of time is not tenable. The service conditions of persons engaged by Railway Administration are covered by Railway Manual. Chapter 20 deals with casual labours. Clause 2001(i) defines casual labour refers to such of those casual labour engaged on open line works who continue to do the same work for which they were engaged or other work of the same type for more than 120 days without a break are accorded temporary status. Railway has recruitment policy for appointment of regular employees. Such procedure has to be followed for appointment of regular cadre. It was decided to offer opportunity to all casual labours for being appointed on regular basis. Said decision was published in Dainik Bhaskar in March 2003 inviting the applications from casuals. Selections were made from candidates who submitted application for selection on regular basis. Workman did not submit application for regular post. He had not approached management at any time for his regular appointment. Workman had not completed 240 days continuous service. Workman is not entitled to any relief.

5. Ist party workman filed rejoinder on 30-7-09 reiterating his contentions in statement of claim. As per the procedure management was bound to send the call letters for screening of the workman. it is reiterated that workman is entitled for regularization.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of DRM, West Central Railway, Jabalpur in terminating the services of Shri Ram Lal S/o Shri Dallu Yadav, Ex-MRCL w.e.f. 18-11-86 is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. As per terms of reference, workman is challenging termination of his service w.e.f. 18-11-86 alleging violation of Section 25-F of ID Act. Management has denied that workman had acquired temporary status. It is denied that workman worked more than 240 days. Workman has failed to participate in reference proceeding. He has not adduced evidence in support of his claim. The evidence of workman was closed on 23-11-2011. The documents produced by workman Exhibit W-1 to W-5 admitted by the management of 2nd party. Exhibit W-1 is copy of application submitted to ALC, Jabalpur, Exhibit W-2 is copy of failure report submitted by ALC, W-3 is copy of order of reference. W-4 is copy of order passed in Writ Petition filed by workman. W-5 is copy of order of reference. Similar documents are filed by management of 2nd party at Exhibit M-1, M-3 & M-4. Exhibit M-2 is copy of Dainik Bhaskar relating to regularization of 308 Railway casual labours.

8. Workman has not adduced evidence about his working days. Copy of MRCL card produced by workman is not admitted by management.

9. Management filed affidavit of witness Shri V.K.Gumasta supporting contentions of management that workman has not completed 240 days continuous service. His evidence remained unchallenged. Workman has not adduced evidence that he completed 240 days continuous service within 12 calendar months prior to his termination on 18-11-86. Therefore termination of workman in violation of Section 25-F of ID Act is not established.

10. Besides above, Shri A.K.Shashi for management submits that reference made after long lapse of time after 21 years is not tenable. The ratio relied in case of Assistant Executive Engineer, Karnataka versus Shivalinga reported in LLJ-2002-457 supports the arguments advanced by Shri A.K.Shashi. ratio held in case Nedungadi Bank Ltd versus K.P.Madhavankutty reported in AIR-2000-SC-839 is also clear that complaint made after 7 year giving rise to the Industrial dispute or that industrial dispute could be apprehended held bad on the ground of delay.

11. Considering workman had not adduced evidence about his working days, the dispute is referred after 21 years is not tenable. I record my finding in Point No.1 in Affirmative.

12. In the result, award is passed as under:-

- (1) The action of the management of DRM, West Central Railway, Jabalpur in terminating the services of Shri Ram Lal S/o Shri Dallu Yadav, Ex-MRCL w.e.f. 18-11-86 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1278.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक इंदौर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 142/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/101/98-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1278.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 142/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/101/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/142/99

General Secretary,
 Nationalised Bank Employees Association,
 Hardev Niwas,
 Head Office 5, Y.N.Road,
 Indore

...Workman/Union

Versus

Managing Director,
 State Bank of Indore,
 (Merged in SBI)
 Indore

...Management

AWARD

Passed on this 18th day of February 2016

1. As per letter dated 12-3-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/101/98-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of State Bank of Indore (merged as SBI) in not granting special duty leave to Shri Ram Nagwanshi, General Secretary of Nationalised Bank Employees Association is justified? If not, to what relief the concerned workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim at Page 7/1 to 7/2. Case of Ist party workman is that Daily Wage Bank Employees Union and Nationalised Bank Employees Union are registered under Trade Union Act, 1926 bearing No. 5255, 5244 respectively. Ist party is Secretary of both of the Union. Being General Secretary of the Union, he was representing employees in the proceedings. He was working as Assistant Cashier in Raj Mohalla Branch Indore. He was working with devotion without any grievances against him. In proceedings he was representing the employees in the court. On that account, he was permitted to attend duties late by about 1 ½ hour. On 18-7-97, he submitted proceeding before ALC, Bhopal bearing No. 62/97. The dispute has been referred.

3. Ist party submits that out of malafide, he was dismissed from service without obtaining permission which is punishable under Section 33-A of ID Act. The complaint is filed for violation of Section 33 of ID Act. Workman prays for his reinstatement with consequential benefits.

4. 2nd party submitted application for dismissal of the proceeding. That Ist party is dismissed from service for grave misconduct on 5-12-2001. He is not in employment of the Bank, cannot represent the employees. Written Statement is filed by management at Page 14/1 to 14/5 opposing relief claimed by Ist party. 2nd party submits that it is registered under SBI(Subsidiary Company's) Regulation Act 1959. It carries banking business. It is governed by the circulars issued by RBI and SBI. The service conditions of sub staff are governed by bipartite settlement dated 19-10-66 approved by Government of India. Union covered by said settlement are eligible for leave for attending conference and meetings. Shri R.Nagwanshi raised dispute claiming to be Secretary of the Union and denial of the leave. As he has been dismissed from service on 5-12-2001, he is not in banking service, Shri Ram Nagwanshi is not concerned with All India Bank Employees Association, All India Bank Employees Federation or any other Union affiliated to such Union. The bipartite settlement does not provide for allowing leave to nationalized bank employees association. While Shri Nagwanshi working as General Secretary of Nationalised Bank and exploited the labours, he was expelled from said Employees Association. Shri Nagwanshi formed other employees federation/ Union after his dismissal from service. He had formed Daily Wage Employees Union etc. the employees working in the Bank are not member of said Union. It is reiterated that as per Bipartite Settlement, Shri R.Nagwanshi is not entitled for benefit of leave. That Shri R.Nagwanshi is not office bearer of All India Bank Federation. He is not entitled to such leave. On such ground, 2nd party prays that claim of Ist party deserves to be rejected.

5. Ist party submitted rejoinder reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of State Bank of Indore (merged as SBI) in not granting special duty leave to Shri Ram Nagwanshi, General Secretary of Nationalised Bank Employees Association is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Term of reference pertains to denial of special duty leave to Shri Ram Nagwanshi General Secretary of Nationalised Bank Employees Association. However in his statement of claim, 1st party workman is praying punishment under Section 33 & allow him to represent in the proceeding till its final adjudication.

8. Workman filed affidavit of his evidence. In his affidavit, 1st party has stated that State Bank of Indore is merged in State Bank of India. On 17-2-78, he was working as Asstt. Cashier, Godown Keeper, he was appointed under SC ST Reservation. That State Bank of Indore Employees Congress was registered Union having No. 3782. He was General Secretary of said Union. He was also Dy.General Secretary of SC ST Employees Welfare Council Registration No. 8650. He was representing employees in conciliation proceeding at CGIT, Jabalpur camp Indore. He was permitted to attend duties late. That 2nd party violated Section 33-A of ID Act for terminating his services on 1-12-2001. Affidavit of workman is not consistent with his statement of claim neither it is commuted with the terms of reference. In his cross-examination, workman says he was General Secretary of State Bank of Indore Employees Congress and State Bank of Indore SC ST Employees Welfare Council. SC ST Welfare council was registered in social welfare office Bhopal. Both the Unions were recognized. He was not expelled from those Unions. He has not produced documents about both the above Union were recognized. He claims ignorance about provisions under Bipartite Settlement in 1966 pertaining to special leave. He had claimed special leave for participating in conciliation proceeding before ALC, Bhopal. He had produced documents in that regard. He has not produced documents in that he was General Secretary of both of above Unions. The term of reference pertains to denial of special leave to 1st party as Secretary of Nationalised Bank Employees Association whereas his evidence is devoted to State Bank of Indore Employees Congress and SC ST Employees Welfare Association.

9. The evidence of management's witness Shri Deepak Kothari is devoted on point that Shri Ram Nagwanshi is not in service of the Bank. He does not require any leave for attending court cases. Shri Ram Nagwanshi has not pointed out any provision under which he is entitled to special leave for attending conciliation proceeding or court cases. He has not given details of the cases in respect of which he applied for special leave. The affidavit of management's witness is further devoted on the point that service conditions of award staff and sub staff are covered by 1st Bipartite Settlement dated 19-10-66. As per said settlement, the office bearer of All India Bank Employees Association and All India Bank Employees Federation are entitled to claim special leave. From his evidence Exhibit M-1 bipartite settlement of 1966 is admitted. In his cross-examination, management's witness says list of Banks to which Exhibit M-1 applied is not given in Exhibit M-1. M-1 applies to all nationalized banks. During 1994 to 1996, he was not working in Rajmohalla branch Indore neither he was working in the Regional office. He denied letters of various dates shown to him. Bipartite settlement Exhibit M-1 para 13.39 deals with special leave. It provides –

“Special leave will be allowed to certain employees for attending meetings and conferences of trade unions of bank employees as provided below:-

(a) Office bearers of All India Bank Employees Association/ All India Bank Employees Federation- upto 21 days in a calendar year.

(b) Central Committee members of the All India Bank Employees Association/ All India Bank Employees Federation- upto 17 days in a calendar year.

(c) Office bearers of the Executive Committee of the State or Regional Organisation affiliated to All India Bank Employees Association/ All India Bank Employees Federation – upto 7 days in a calendar year.

10. The pleadings and evidence of Ist party are not complying above condition. There is no evidence that Ist party was General Secretary or office bearer of All India Bank Employees Association/ All India Bank Employees Federation. Therefore claim of workman for special leave is not established. For above reasons, I record my finding in Point No. 1 in Affirmative.

11. In the result, award is passed as under:-

- (1) The action of the management of State Bank of Indore (merged as SBI) in not granting special duty leave to Shri Ram Nagwanshi, General Secretary of Nationalised Bank Employees Association is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 82/12) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12011/25/2012-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1279.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 82/12) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 25.05.2016.

[No. L-12011/25/2012-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/82/12

General Secretary,
Dainik Vetal Bhogi Bank Karmchari Sangathan,
F-1, Tripti Vihar,
Opp. Engineering College,
Ujjain (MP)

...Workman/Union

Versus

Branch Manager,
State Bank of India,
Goyal Nagar Branch,
Indore (MP)

... Management

AWARD

Passed on this 17th day of February 2016

1. As per letter dated 19-7-2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/25/2012-IR(B-I). The dispute under reference relates to:

“Whether the demand of the Union, Dainik Vetan Bhogi Bank Karamchari Sangathan for making payment of difference of wages as per wages paid to permanent peon for the period from 16-3-06 to 30-10-2010 to Shri Sachin Lakhmiya is legal and justified? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. General Secretary, Dainik Vetan Bhogi Bank Karmchari Sangathan submitted statement of claim on behalf of workman from page 2 to 4. Claim of Ist party is that he was engaged as peon by Branch Manager Shri Vishwajit Das from 16-3-06. He worked 8 hours in a day. He continuously worked more than 240 days during each of the year till termination of his service on 30-10-2010. His services were terminated without notice, retrenchment compensation was not paid to him. Workman was paid wages Rs. 50/- per day which were increased to Rs.60/-, 80/- & 100/- per day. In addition he was paid Rs. 300/- for cleaning ATM, 350/- for cleaning of toilets etc. That he is eligible for payment of scale wages. The violation of settlement is punishable under Section 29 of ID Act. The workman prays for payment of difference of salary as per 8th, 9th bipartite settlement with interest.

3. 2nd party filed Written Statement at Page 4 to 8 opposing claim of Ist party workman. 2nd party submits that it is established under SBI Act,1985. 2nd party submits that Ist party workman was temporarily engaged on daily wages at Goyal Nagar branch for cleaning of ATM and outer space of the branch premises. Workman was paid daily wages engagement of workman was temporary for administrative exigencies. Workman was not continuously working as Ist party is not permanent employee of the Bank, he is not entitled to benefit of salary as per bipartite settlement. It is reiterated that bipartite settlements are not applicable to the persons engaged temporary/ daily wage basis. The settlements represents case of permanent employees that SBI as acquired State Bank of Indore as per Notification dated 28-7-2010. The permanent employees and officers of the Bank are absorbed in service of SBI. It is reiterated that Ist party workman be engaged temporarily. He is not entitled to difference of salary as per bipartite settlement. Ratio held in various cases have been quoted. It is prayed that reference be answered in favour of management.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of the Union, Dainik Vetan Bhogi Bank Karamchari Sangathan for making payment of difference of wages as per wages paid to permanent peon for the period from 16-3-06 to 30-10-2010 to Shri Sachin Lakhmiya is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to the demand for difference of salary as per the bipartite settlement. Management of 2nd party denied claim. Workman as filed affidavit of his evidence. However he has not appeared for his cross-examination, his evidence cannot be considered.

6. Management's witness Shri Himansh Joshi filed affidavit of his evidence supporting contentions of management in Written Statement. That as Ist party workman was engaged temporarily/ daily wage basis, he is not entitled to difference of salary as per bipartite settlement. In his cross-examination, management's witness says he was not posted in Goyal Nagar during 2006 to 2010. Before filing affidavit of evidence, he has not seen document of the Bank. He denied documents regarding payment of difference of salary by other Banks. The policy/ rules about payment of salary is not produced.

7. Shri Ram Nagwanshi Union Representative after argument produced copy of Ist Bipartite Settlement. Para 20.7 refers to Para 21.20 of the Desai Award. Temporary employee is defined as employee engaged temporarily during absence of regular employee. Para 20.7 of Ist Bipartite settlement is silent about engagement of daily wage employees. Para 4.5 of Ist bipartite settlement refers to Para 5.191 of Desai Award. Said para deals with the part time employees are entitled to 1/3rd basic pay, special allowance, HRA and other allowances of the regular employees provided their working hours do not exceed 12 hours in a week. Said para also does not deal with payment of wages to persons engaged on daily wages. The copies of 9th Bipartite settlement, providing pay scales to clerks, and sub staff etc. are silent about payment of salary/ wages to persons engaged on daily wages. The claim of Ist party for difference of wages as per bipartite settlement is not supported.

8. Incidentally I may also refer to ratio relied by Shri Praveen Chaturvedi in Case of Mahboob Deepak versus Nagar Panchayat, Gajraula and another reported in 2008(1)SCC-575, BSNL versus Mansingh reported in 2012(132)FLR500 & State of Rajasthan and others versus Dayalal and others reported in 2011(2)SCC-429. The ratio held in the case cannot be applied to case at hand, claim for difference of wages cannot be accepted therefore I record my finding in Point No.1 in Negative.

9. In the result, award is passed as under:-

- (1) The demand of Union for making payment of difference of wages as per wages paid to permanent peon for the period from 16-3-06 to 30-10-2010 to Shri Sachin Lakhmiya is not proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1280.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 79/12) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12011/26/2012-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1280.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/12) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 25.05.2016.

[No. L-12011/26/2012-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/79/12

General Secretary,
Dainik Vetal Bhogi Bank Karmchari Sangathan,
F-1, Tripti Vihar,
Opp. Engineering College,
Ujjain (MP)

... Workman/Union

Versus

Branch Manager,
State Bank of India,
Goyal Nagar Branch,
Indore (MP)

... Management

AWARD

Passed on this 17th day of February 2016

1. As per letter dated 18-7-2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No. L-12011/26/2012-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of State Bank of India in terminating the services of Shri Sachin Lakhmiya w.e.f. 1-11-2010 is legal and justified? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. General Secretary, Dainik Vetal Bhogi Bank Karmchari Sangathan submitted statement of claim on behalf of workman. Claim of Ist party is that he was engaged on daily wages by Branch Manager Indore from 16-3-06. Workman was working in the Bank from opening till its closing. Workman was paid wages Rs. 50/- per day which were increased to Rs.60/-, 80/- & 100/- per day. In addition he was paid Rs. 300/- for ATM, 350/- for cleaning of toilets etc. He was working for 8 hours every day. His services were orally terminated on 30-10-10. Notice of termination was not issued. Retrenchment Compensation was not paid to him. His services are terminated in violation of Section 25-F of ID Act. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement on 9-9-2014 opposing claim of Ist party workman. 2nd party submits that it is established under SBI Act,1985. The State Bank of Indore is merged in State Bank of India in the year 2010. As per notification of merger, the regular employees were absorbed in service. Workman was not appointed by the Bank following recruitment process. Workman was intermittently engaged as per exigencies. He not completed 240 days continuous service. The contention of workman that he was not wages as per the bipartite settlement has been denied. That Section 25 B of ID Act doesnot confer permanency to the workman quoting ratio held in various cases. 2nd party submits that workman is not entitled to regularization. He not completed 240 days continuous service. He is not entitled to any relief.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of State Bank of India in terminating the services of Shri Sachin Lakhmiya w.e.f. 1-11-2010 is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order

REASONS

5. The term of reference pertains to legality of termination of service of Ist party workman term of reference doesnot include denial of regularization . Workman did not adduce any evidence in support of his claim.

6. Management's witness Shri Himanshu Joshi filed affidavit of his evidence supporting contentions of management that State Bank of Indore is acquired by State Bank of India as per the notification dated 20-7-2010. The conditions No. 7/8 of the requisite are reproduced contending that regular employees were absorbed in service. The daily wage employees were not entitled for absorption. Workman had not completed 240 days continuous service. Termination of his service in violation of Section 25-F is denied. Workman was intermittently engaged on daily wages for cleaning the Bank premises around 280 sq.ft. workman was engaged whenever work was available. Payment of bonus has been denied. In his cross-examination, management's witness admitted document Exhibit W-1, W-2. The document Exhibit W-1 is copy of affidavit filed before ALC, Bhopal mentioning the chart of working days. Workman in December 2007 was paid Rs. 300 in 2008-09, he worked for 12 months and was paid Rs. 1200/- per month. In 2010, the workman was paid Rs.100/- per day from January to October for 6 days in a week. Chart of working days of workman is also enclosed for the year 2007 and amount paid to them for cleaning work. In document Exhibit W-2, statement of Bank account for the period 5-5-2010 to 4-1-2010 the amount paid to workman are shown. Though workman has not entered in witness box, above documents are clear that workman was continuously working from December 2007 till 4-11-2010. He worked more than 240 days during each of the year. His services are terminated without notice, retrenchment compensation was not paid to workman. The termination of the services of Ist party workman is illegal for violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

7. Point No. 2- In view of my finding in Point No.1, workman is terminated without complying Section 25-F of ID Act, question is whether workman is entitled for reinstatement with backwages. Though the workman has pleaded about denial of regularization in service, the contention of workman pertaining to regularization are beyond the terms of reference and cannot be considered. Shri Praveen Chaturvedi appearing for 2nd party relies on ratio held in

Case of Mahboob Deepak versus Nagar Panchayat, Gajraula and another reported in 2008(1)SCC-575. Ratio held in the case pertains to daily wager having completed 240 days of continuous service in a year. Services terminated on grounds of misconduct for financial irregularities. Their Lordship had further held that daily wager adhoc employees. The respondent local authority cannot make appointment without following provisions of recruitment rules. Any appointment made in violation of the rules is also constitutional scheme of equality.

In present case, the workman was not appointed following recruitment rules. He was engaged as per rules. His services were terminated violating Section 25-F of ID Act. Workman cannot be regularized on the terms of reference are also silent.

In case between BSNL versus Mansingh reported in 2012(132)FLR500. Their Lordship dealing with Section 25-F of ID Act termination without notice and retrenchment compensation the award for reinstatement was modified for compensation Rs. 2 Lakhs holding that daily wager does not hold post and not permanent employee.

In case between State of Rajasthan and others versus Dayalal and others reported in 2011(2)SCC-429. Their Lordship held part time employees are not entitled to regularization as they are not working against any sanctioned post.

8. As the workman was engaged on daily wages, he was continuously working from 16-3-06 to 30-10-10, considering the period of working and wages paid to workman, compensation Rs.60,000/- would be appropriate.

9. In the result, award is passed as under:-

- (1) The action of the management is not proper and legal.
- (2) 2nd party is directed to pay compensation Rs.60,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1281.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एस ई सी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 95/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-41012/18/2012-आईआर (बी-I)]
रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1281.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of SEC Railway and their workmen, received by the Central Government on 25.05.2016.

[No. L-41012/18/2012-IR (B-I)]
RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/95/2012

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Daulat Ram,
S/o Late Narayan, Ex-Safaiwala,
Dalli-Rajhara Station, SECR,
Qr. No. 53/A,
Rly Colony, PO Dalli Rajhara,
Distt. Durg (CG)

...Workman

Versus

Divisional Commercial Railway Manager,
DRM Complex, SECR,
Raipur CG

Chief Station Manager,
SECR, Dalli-Rajhara,
Distt. Durg (CG)

...Management

AWARD

Passed on this 18th day of February 2016

1. As per letter dated 3-9-12 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-41012/18/2012-IR(B-I). The dispute under reference relates to:

“ Whether the action of the management of SEC Railway, Raipur in terminating the services of Shri Daulat Ram S/o late Shri Narayan w.e.f. 12-8-2011 is legal and justified? To what relief the workman is entitled”

2. Ist party workman is challenging termination of his services w.e.f. 12-8-2011 from management in the dispute under reference . Even after issuing notices, the workman did not participate in the proceeding, no statement of claim is filed. Ist party is proceeded ex parte on 11-5-2015.

3. IIInd party management also not filed Written Statement. From conduct of the parties, it is clear that the parties are not pursuing or participating in the dispute.

4. In the result, award is passed as under:-

“Reference is disposed off as No Dispute Award.”

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 28/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/38/2010-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/38/2010-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/28/2011

Shri Vijay Kumar Saiuni,
R/o 317, Kotwali, Ward,
Hanuman Tal,
Jabalkpur

...Workman

Versus

Deputy General Manager,
Bhartiya State Bank,
Zonal Office, Vijaynagar,
Jabalpur

...Management

AWARD

Passed on this 17th day of February 2016

1. As per letter dated 5-4-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No .L-12012/38/2010-IR(B-I). The dispute under reference relates to:

“Whether the demand of Shri Vijay Kumar Saini, Ex-Messenger cum Canteen Boy, State Bank of India, Madhatal Branch, Jabalpur for his regularization w.e.f. the date of his termination i.e. 28-6-09 with all consequential benefits, is legal and justified? To what relief, the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim on 21-12-11. Case of Ist party workman is that he was engaged on daily wages as permanent peon at Marhatal branch, Jabalpur. In April 1982, he was working in the Bank from opening till time of closing. He was doing work of distribution of dak, supplying drinking water, taking vouchers to the different tables. He was working for 8 hours every day. He was paid Rs.250/- per day. For distribution of dak in the name of Rikshaw charges and other bills through petty cash. The amount was deposited in his Saving Bank Account. He completed more than 240 days continuous service. He was entrusted work of carrying cash from post office. On 17-11-90, he was called for interview. After his successful interview, he was engaged for the work of messenger. He claimed bonus and difference of wages therefore his services were terminated from 28-6-09 without notice. He was not paid retrenchment compensation, termination of his service is illegal. He is covered as employee under Section 25 B of ID Act. His services are terminated in violation of Section 25-F of ID Act. Bonus under Section 8 of payment of Bonus Act was not paid. He was not paid salary as per 4 to 9 settlements. On such ground, Ist party workman prays for his reinstatement with consequential benefits.

3. 2nd party filed Written Statement on 3-12-2012 opposing claim of Ist party workman. 2nd party submits that Ist party was engaged as canteen boy at Marhatal branch during 980 to 2009. Local Implementation Committee of the Staff voucher runs the canteen. Branch Manager and Union Representative are the President, Secretary of said committee. The Bank provide subsidy for running canteen. The Bank has no control over the canteen boy. Implementation Committee engaged canteen boy and pay wages. Bank is under no obligation to run the canteen. The work taken from Ist party was not full time and continuous. Occasionally workman was asked to deliver letter etc. he was reimbursed expenses incurred by working. It cannot be said workman was engaged by the Bank on full time basis. Engagement in the branch cannot be termed as casual labour. Workman had not completed 240 days continuous service. That workman is not entitled to absorption in service as per ratio held in case of Umadevi. Workman is not entitled for regularization 2nd party reiterates that workman was occasionally assigned work of delivery operators etc. he has not completed 240 days continuous service in the Bank. He was not in service of the Bank. Termination of his services from 28-6-09 by Bank is denied. Termination in violation of Section 25-F of ID Act is denied. Non-payment of bonus is also denied.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of Shri Vijay Kumar Saini, Ex-Messenger cum Canteen Boy, State Bank of India, Madhatal Branch, Jabalpur for his regularization w.e.f. the date of his termination i.e. 28-6-09 with all consequential benefits, is legal and justified?	Termination of service of workman is illegal.
(ii) If not, what relief the workman is entitled to?”	As per final order.

REASONS

5. Terms of reference pertains to regularization of workman from date of his termination 28-6-09. The terms of reference needs to be liberally constitute that it pertains to legality of termination and denial of regularization of workman.

6. Ist party workman filed affidavit of his evidence, in his affidavit, workman says from April 1982, he was engaged as peon and canteen boy. Work of messenger was taken from him. He was paid wages from petty cash. From 30-5-96 to 20-6-09, he was working as messenger, he was distributing dak. Wages were deposited in his Saving Bank Account. Rickshaw charges were deposited in his account. Till 23-8-88, he worked for 258 days. He was called for interview on 17-11-90 along with documents. In his cross-examination, workman was unable to tell his date of birth. He born in 1966. He was getting Rs. 1200 per month from canteen. From 1982 to 2009, he was working in canteen. Initially he was paid Rs. 700 per month. It was increased to Rs. 1200 per month. Amount was paid by cheque. Workman was unable to tell whether in Para-3 of his statement of claim, he was paid Rs. 250/- was correctly written. Workman admits contents of para-6 of his statement is correct. Amount paid from canteen in 1986 was deposited in his account. He was working in Bank on daily wages Rs. 50/- during 1986 to 2009, he was paid wages Rs. 50/- per day. Why it is not pleaded in his statement of claim is not explained by him. On 238-6-09, Branch Manager refused to allow him on work. He denies that for miscellaneous Bank work, he was paid extra charges. He denies that from 28-6-09, he was denied work in canteen.

7. Management's witness Shri Vivek Kumar Pande filed affidavit of his evidence supporting contentions in Written Statement that Ist party workman was engaged as canteen boy. The canteen was managed by Local Implementation Committee. Occasionally workman was asked to deliver letters etc. he was reimbursed expenses incurred by him. Workman not worked for 240 days in any of the year. In his cross-examination, management witness says he was not posted in Marhatal branch, Jabalpur during the period in question. From 2013, he was working in said branch. Workman was engaged by Local Implementation Committee. Bank has no concern with it. Bank gives subsidy for canteen. The policy about engagement of canteen boy is not produced on record. Witness of management claims ignorance at what rate canteen boy was paid. Canteen boy was supplying drinking water, tea. He claims ignorance about actual working of workman prior to his posting in branch. Management's witness was unable to tell whether workman was called for interview in 1990. However he admitted letter Exhibit W-3. Workman was not paid bonus. He was not terminated by the Bank.

8. Large number of documents produced by workman are admitted by 2nd party. Exhibit W-1 is certificate issued by Branch Manager Marhatal that during 1982 to 1987, Ist party workman worked for 250 days. In Exhibit W-2, marksheets of 8th standard of workman was forwarded for appropriate action. Exhibit W-3 shows that workman was called for interview on 17-11-90. In Exhibit W-4 workman was recommended for interview and absorption workman is shown as canteen boy. The documents Exhibit W-4 produced by workman himself shows that he was a canteen boy and protected employee is not consistent with Exhibit W-1. A canteen boy cannot be said casual or temporary employee of the Bank therefore the claim for regularization of workman as per notice Exhibit W-14 could not be justified. The documents Exhibit W-5 to W-10 shows workman was authorized to collect adhesive stamps and receive cash payments in the year 2008, 2009. Certainly it is not a work of canteen, document Exhibit W-36 to W-48 extract of Bank Account shows payments made to workman in the year 2006 to 2010. The documents Exhibit W-13 to W-25 shows payment of Rickshaw charges to workman during the year 2003, 2005 & 2006 for various work like challans, changing cassettes, distribution of dak etc. Certainly all those work are not connected with canteen activities. In Exhibit W- 26 also, payment of Rickshaw charges is sham for the month April 09. In Exhibit W-28 to W-32, payments of amount is shown during the period 1996 to 2005. Those payments includes kerosene bill, service charges, rickshaw charges etc. The payments are certainly connected with the work of the Bank. The payment made in all those documents cannot be said related to the canteen activities. In Exhibit W-15, reply submitted before ALC, management has admitted that services of workman were utilized for distribution of dak, mail etc. Exhibit W-52, 53 are copies of reply filed before ALC denying claim of workman. Evidence of workman that he was doing work of messenger is corroborated by the documentary evidence discussed above. Exhibit W-59 also corroborates his evidence that he was doing work of distribution of dak. In Exhibit W-4 workman was shown as canteen boy working during the period 1982 to 1987. Therefore the claim for regularization of workman as per the settlement or advertisement Exhibit W-49 cannot be accepted.

9. The evidence of workman corroborated by documents is clear that workman was working with the Bank from 1982 to 2009. He completed more than 240 days continuous service preceding year of his termination 20-6-09. Workman was not paid retrenchment compensation. Termination notice was not issued to him. Therefore termination of workman is illegal for violation of Section 25-F of ID Act. Therefore I record my finding in Point No.1 that termination of service of workman is illegal for violation of Section 25-F of ID Act but he is not entitled to any relief.

10. Point No. 2- In view of my finding in Point No.1 termination of workman is illegal for violation of Section 25-F of ID Act, question arises whether workman is entitled for reinstatement with backwages. The evidence of workman and documents produced on record shows workman was working in the canteen run by Local Implementation Committee. His services were also utilized in the Bank as messenger. Workman was paid Rickshaw charges and other charges whenever he was going for the bank work. Workman was not exclusively doing the work of canteen boy. Both the work were extracted from him. Considering workman was engaged for long period since 1982 to June 2009 but he

was not selected following recruitment process, compensation Rs. 2,50,000 would be reasonable. Accordingly I record my finding in Point No. 2.

11. In the result, award is passed as under:-

- (1) The termination of Ist party workman is illegal for violation of Section 25-F of ID Act. Workman is not entitled for regularization.\
- (2) Management is directed to pay compensation Rs. 2,50,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1283.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 97/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12011/21/2011-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1283.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 97/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 25.05.2016.

[No. L-12011/21/2011-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/97/2011

General Secretary,
Dainik Vetan Bhogi Karmchari Sangathan,
F-1, Tripti Vihar, Opp. Engineering College,
Ujjain ...Workman/Union

Versus

Chief General Manager,
State Bank of India,
Local Head Office,
Hoshangabad Road,
Bhopal (MP) ...Management

AWARD

Passed on this 29th day of April 2016

1. As per letter dated 20-10-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12011/21/2011-IR(B-I). The dispute under reference relates to:

“Whether the demand of the Union, Dainik Vetan Bhogi Bank Karamchari Sangthan, Ujjain for payment of wages to Shri Santosh Sahu for the days he distributed the dak during the period from 10-11-2005 to 4-10-07 is legal and justified? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Statement of claim is submitted by workman through General Secretary, Daily Wages Employees Union on 21-4-2012. Case of 1st party workman is that work of distribution of dak was extracted from him by Branch Manager during period 10-11-05 to 4-10-07. He was paid Rikshaw charges but he was not paid pay/ wages for above said work. That during the period 10-11-05 to 4-10-07, workman was attending work of cleaning of cheques, treasury work, distribution of correspondence. He was paid Rikshaw charges Rs. 30,40 50 per day dependent on the distance. He was not paid pay/ wages for said work. 1st party workman further submits that he was paid bonus but pay/ wages were not paid to him. Not paying wages/ pay by management is illegal.

3. 2nd party filed Written Statement on 24-7-2014 opposing claim of workman. 2nd party contends that workman was never engaged by Bank in any post of peon. He was not engaged in permanent establishment on sanctioned post. Workman was given work of distribution of dak to different offices. He was paid fixed amount settled in advance. The amount fixed as per his consent was accepted by workman without any protest. 2nd party further contends that claim of workman for wages is not tenable as he was not engaged in the Bank. The services of workman were availed as per requirement. Work was not of continuous nature. Work was assigned to 1st party on contract basis. The contracted amount was paid to him for specific work. The dispute raised by workman is not tenable. 2nd party reiterates above contentions that work of distribution of dak was assigned to workman. Workman was not continuously working from 10-11-2005 to 4-10-07. Amount settled for work was also paid. Workman was not engaged as full time casual worker. Claim of workman is denied. 2nd party has referred to ratio held in various cases and prays for reference be answered in its favour.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of the Union, Dainik Vetan Bhogi Bank Karamchari Sangthan, Ujjain for payment of wages to Shri Santosh Sahu for the days he distributed the dak during the period from 10-11-2005 to 4-10-07 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

5. The term of reference pertains to payment of demand of Union for payment of wages of Santosh Sahu for the distributing dak during the period 10-11-05 to 4-10-07. Management has denied the claim of workman.

6. Workman filed affidavit of his evidence supporting his claim but he remained absent for cross examination, his evidence cannot be considered. Management did not adduce evidence in the matter.

7. 2nd party has admitted documents P-4 to P-8 which are marked Exhibit W-1 to W-5. Exhibit W-1 shows 1st party workman was paid amount to Rs. 9046/- for 190 days bonus 8.33 amount Rs. 753.60 was paid to workman. Thus the working days of 1st party workman are shown 190 days. By Exhibit W-2 bonus amount Rs. 754/- has been paid to workman. In Exhibit W-3, in para 4.19, 2nd party has stated that during the period 5-1-05 to 6-10-07 1st party workman has done work of distribution of dak 155 times. He was paid Rikshaw charges, cycle charges Rs. 1710/- workman was not paid salary/ pay for above said work. In Exhibit W-4 also 2nd party has stated that workman did work for distribution of dak. He was paid Rikshaw charges for it. 2nd party has stated that workman has not worked for 8 hours in a day. Entire amount due towards pay was paid to him and nothing was due. In Exhibit W-5, 2nd party has stated that workman assigned work of distribution of dak, Rikshaw charges, cycle charges etc. were paid. Documents with P-9 are not admitted by management. Document P-10 onwards are admitted by management. Rikshaw charges were paid under those payment voucher. 2nd party has not adduced that the charges/ pay for work of distribution of dak was paid to workman. The payment of salary/ wages to workman lies on 2nd party. The burden is not discharged. Considering contents of Exhibit W-1, W-3, workman worked for 190 days for distribution of dak for which wages were not paid to him but rikshaw charges were paid to him. 2nd party has not adduced any evidence what amount was fixed for work of distribution of dak. Therefore the workman is entitled to the wages for 190 days for carrying work of distribution of work at lowest rate of sub staff engaged on daily wages. For above reasons, I record my finding in Point No.1 in Affirmative.

8. Point No. 2- In view of my finding in Point No.1, workman is entitled to wages for 190 days for the work of distribution of dak carried by him. Both parties have not adduced evidence as to what wages, the workman is entitled. 2nd party failed to adduce evidence what amount was settled for above said work. Therefore in my considered view,

workman would be entitled to lowest wages for sub staff engaged on daily wages for 190 days. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:-

- (1) The demand of Union is proper and legal.
- (2) 2nd party is directed to pay wages for 190 days at lowest rate of sub staff engaged on daily wages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1284.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 41/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/307/03-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1284.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/307/03-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/41/2004

General Secretary,
Daily Wages Bank Employees Association.
Hardev Niwas, 9, Sanwer Road,
Ujjain

...Workman/Union

Versus

General Manager (O),
State Bank of Indore,
Head Office,
Indore (MP)
Merged in State Bank of India

...Management

AWARD

Passed on this 29th day of April 2016

1. As per letter dated 8-4-04 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/307/03-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of General Manager (O) State Bank of Indore in terminating the services of Shri Ram Kumar Verma w.e.f. 28-12-2001 and not regularizing his services is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Statement of claim is filed through Union at Page 7/1 to 7/7. Case of 1st party workman is that he was engaged on permanent post of peon on wages Rs. 60/- per day from

10-9-97. He worked with devotion as there was no permanent peon or daftary working in Pritamgarh branch. Ist party workman was required to do all the work of peon and Daftary. He was attending for work in the branch at 9 AM doing cleaning, sweeping work. That he was doing work of peon till the Bank was closed. He was stitching bundle of notes, distributing daks, going for purchase of articles required in the Bank, taking amount of funds to different banks. He worked for 165 days during 1997-98, 313 days during 1998-99 & 312 days during 1999-2000, he was also paid bonus for all those years. Bonus for 2001-02 was not paid to him, in the year 2000, wages of Ist party workman were increased from Rs. 60/- to 65/- per day. On 20-12-01, Branch manager Shri B.S. Agrawal terminated his service without notice, retrenchment compensation was not paid to him. He honestly worked as peon in the Bank. After termination of his service, workman raised dispute. There was frequent correspondence between management and workman. After failure of conciliation, dispute was referred. Ist party workman submits that for absorbing son of daughter of Dy. Manager, Ist party workman was terminated without notice. Termination of his services is in violation of Section 25-F. Policy of last come first go was not followed. Workman was not re-employed after his retrenchment. Thereby 2nd party violated Section 25 H of ID Act. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party management filed Written Statement at 8/1 to 8/8 opposing claim of workman. 2nd party submits that service conditions of employees of Bank are covered by Sastri Award, Desai Award, bipartite settlement entered in the Union and Association of Bank. That as per the award, settlement, sub-staff in Banks are entitled to various kinds of leave. The sub-staff remain absent without prior intimation. Under such circumstances, management is required to engage daily wagers in leave vacancy calling names of the candidates from Employment Exchange. Name of workman was not sponsored through Employment Exchange. He is not eligible/ qualified to be engaged on daily wages. Workman was engaged as causal labour for 2-3 hours in Pritamgarh branch for cleaning, sweeping work. 2nd party submits that claim of workman is not covered as dispute defined under Section 2(j) of ID Act. Workman was never appointed by Bank, appointment letter was not given to him. Workman had not undergone recruitment process. There is no employer employee relationship. Therefore claim of workman cannot be treated as ID and deserves to be dismissed. 2nd party referred to ratio held in various case and reiterating above contentions, 2nd party prays that reference be answered in its favour.

4. Ist party filed rejoinder at Page 9/1 to 9/2 reiterating contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of General Manager (O) State Bank of Indore in terminating the services of Shri Ram Kumar Verma w.e.f. 28-12-2001 and not regularizing his services is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. The term of reference pertains to legality of termination of service of workman and denial of regularization in service. Claim of workman is opposed by management filing detailed Written Statement. Employer employee relationship is denied. In para-2 of Written Statement, 2nd party contended that workman was engaged on daily wages for casual work for 2-3 hours in a day. Ist party workman filed affidavit of his evidence supporting his claim in statement of claim but he did not appear for his cross-examination. Therefore his evidence cannot be considered. As per order dated 22-3-2011, it was brought to notice that State Bank of Indore is merged in State Bank of India on 28-7-2010. The zerox copy of documents produced by workman are not proved by valid evidence. Application for production of documents was submitted by workman on 20-2-07. Said application was opposed by management contending that the attendance of casual daily wage employees are not maintained by Bank. The application was not pursued by 2nd party even after application for calling documents regarding distribution of documents. Therefore argument advanced by Shri R.Nagwanshi Union Representative to draw reference for non-production of documents cannot be accepted.

7. Management has filed affidavit of witness of Shri Deepak Kothari supporting contentions of 2nd party. The contentions in Written Statement filed by 2nd party that workman was not appointed following recruitment process. He was engaged for daily wages for 2-3 hours. Management's witness in his cross examination says 1991 to 2001 he was not posted in Pritamgarh branch. Presently he is working at Branch Manager. Before filing affidavit, he discussed the matter with earlier Branch Managers. He received information that workman was engaged on daily wages. Appointment letter was not given to him. Any recruitment process was not followed before his engagement. Attendance register of workman was not maintained. He was paid wages Rs. 50, 60/- per day. He claims ignorance who was working as

Daftary in the Bank during 1997 to 2001. The zerox copies of payment vouchers, copy of payment register, bonus register referred to him were denied. That workman was not paid retrenchment compensation. No documents are produced about distribution of dak requested by workman filing application for production of documents.

8. The legal position is settled that onus lies on workman to prove that he worked more than 240 days preceding his termination. Workman filed his evidence but he not appeared for his cross-examination. Any documents produced by him are not proved. Evidence of workman cannot be considered. Workman has failed to discharge onus that he continuously worked for 240 days preceding 12 months of his termination. When workman has failed to discharge his onus, the burden does not shift on management when 2nd party has adduced evidence that documents regarding attendance payment of wages of casual daily wagers are not maintained. There is no reason to disbelieve evidence of management's witness. Workman failed to establish that termination of his services is in violation of Section 25-F of ID Act as he failed to prove that he worked for 240 days continuously. Therefore I answer Point No.1 in Affirmative.

9. In the result, the award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1285.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 100/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/18/2005-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1285.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 100/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/18/2005-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/100/2005

The State Secretary,

Apax Sangathan, Ward No.13,

Shau Gharola Mohalla,

Shahdol

...Workman/Union

Versus

Assistant General Manager,

State Bank of India,

Zonal Office,

Region-IV, Vijay Nagar,

Jabalpur

...Management

AWARD

Passed on this 8th day of April, 2016

1. As per letter dated 14-9-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-12012/18/2005-IR(B-I). The dispute under reference relates to:

“Whether the action of the General Manager, Bank of India, Region-IV in not regularizing the services of Shri Lalman Napit in the post of messenger is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 6/1 to 6/3. Case of 1st party workman is that he was initially appointed as messenger from 1-7-75 at Branch Office Shahdol. He was continuously working with 2nd party. He completed more than 240 days during each of the calendar year. That 2nd party Bank is established under SBI Act 1955 is covered as industry under ID Act. 1st party is covered as workman under Section 2(s) of ID Act. That he was appointed against vacant post following proper procedure. He worked honestly to the satisfaction of his superiors. He also acquired experience to possess qualified post of messenger. While continuing in service, no chargesheet was issued against him nor enquiry was conducted against him. The job on which workman is working is of permanent nature. He deserves to be regularized on post of messenger.

3. Workman further submits that he is performing work of messenger since his initial appointment. He is paid wages Rs.815/- total 1635/- per month. Though he is performing job of regular messengers, he is not paid wages as per pay scale prescribed for said post. Management has not followed principles for equal pay for equal work contemplated under Article 39 of the constitution. Workman is paid less wages. 1st party workman further submits that post on which he is working permanently is useful to the management. He is appointed on clear vacancy post is permanent. The services of workman are not regularized. He has valuable rights of conciliation for regularization because junior employees have been regularized on the post of messenger. That since last 30 years, he is working with 2nd party therefore he is entitled for regularization from completion of six months from the date of his appointment and consequential relief. Management was not regularizing his services is unfair labour practice. Management has discriminated workman by not regularizing his services. Workman reiterates that since his appointment from 1-7-75 after completion of six months satisfactory service, he is entitled for regularization as permanent employee. This Tribunal was pleased to direct management to regularize services of workman submits that directions be issued for regularization of his service since completion of six months service from initial appointment and pay regular pay scale as consequential benefits.

4. 2nd party filed Written Statement opposing relief claimed by workman. 2nd party submits that workman was engaged in Bank on daily wages purely on casual labour. In 1982, he worked for 109 days at Shahdol, in 1983, he worked for 114 days in Singhpur, 137 days in Regional Office, Shahdol & 164 days in Regional Office, Shahdol. 2nd party reiterates that workman was engaged purely as daily rated casual employee for casual work on contract basis. The workman was engaged from opening hours of the Bank till closing hours of the Bank. Workman was free not to come on wage day. Management was also free to engage him on next day. Workman was paid daily wages. He was not in continuous employment of the Bank. Workman had not completed more than 240 days in any calendar year. As workman was engaged on daily wages has no right to the Court. His engagement is subject to availability of work. Engagement of work as daily wager indicates his engagement subject to availability of work for a particular day only. The continuous work for what soever long period cannot over reach the law. The regular appointments are made in accordance with rules. Workman is not entitled for regularization of his services. 2nd party further submits in order to provide permanent appointment to the persons working on daily wages in Bank, settlement was reached between Bank and Staff Federation. Under the settlement, it was agreed that the person shall be given appointment on available vacancies on daily rated employees who worked for continuous period under clause 1 of the settlement were to be given opportunity for permanent employment in the Bank subject to his age is between 18 to 26 years. 2nd party reiterates that at the time of engagement of workman, his date of birth was 1-7-55. He was engaged in 1982, age of workman was 27 years, workman was not eligible for permanent employment in the Bank. 1st party workman was called for interview along with other candidates. The selection Committee found 1st party was overage at the time of his initial appointment therefore he was not offered permanent appointment. 2nd party denies that 1st party was appointed on the post of messenger. He was engaged on daily wages on temporary basis as per exigency of work. Workman is not still working in the Bank. 1st party workman was working since 13-6-92 in canteen run by Local Implementation Committee which is welfare committee for staff members. Branch Manager is President, Union Representative is the Secretary and one more staff member is on the said committee. The Bank provides subsidy to the committee for running the canteen and catering services for the staff members working at the branch. The branch recruits canteen boys. The bank has nothing to do with the said recruitment. The Bank has no concern with supervision or control with the work done by the canteen boys. Even for purpose of settlement, the period upto 1991 was required to be taken into account. 1st party is working in the canteen since 13-6-92. It was admitted in the application submitted before ALC during conciliation proceedings. 2nd party denies that workman completed 240 days continuous service, he is not entitled for regularization. It is denied that workman as

appointed against vacant post after following selection procedure. It is denied that workman was paid wages plus DA. Workman cannot claim benefit of pay scale in parity with regular employees. Violation of principles of equal pay for equal work is denied. As workman was appointed on daily wages as per exigency, he cannot claim benefit of such principle. Workman was never appointed on any post in the Bank following selection process. As per ratio held in Secretary, State of Karnataka versus Umadevi, workman is not entitled for regularization. On such contentions, 2nd party pleads that reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the General Manager, Bank of India, Region-IV in not regularizing the services of Shri Lalman Napit in the post of messenger is legal and justified?	In Affirmative
(ii) If not, to what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. The terms of reference pertains to denial of regularization of workman on post of messenger. Workman filed affidavit of his evidence supporting his contentions in statement of claim that he was initially appointed as messenger on 1-7-75 at Shahdol branch on vacant post following selection process. Since his initial appointment, he is continuously working. He worked honestly. Any chargesheet was not issued to him. No enquiry was conducted against him. He referred to rendered service satisfactorily. He completed more than 240 days during each of the calendar year. Appointment letter was not given to him. He was paid wages less than minimum wages though work of regular employee was extracted from him. That he is working in the Bank since last 38 years. His services are not regularized. The employees engaged after him are regularized. In 1986, he participated in selection process. He passed in exam. His name was included in the panel list but his services were not regularized on the post of messenger. From evidence of workman, documents Exhibit W-1, 1(a to c) are admitted in evidence. In his cross examination, workman says he passed 8th standard. His date of birth is 7-7-55. Initially he was appointed in 1975. He was doing work of taking ledgers issuing token. He had not received interview call. His name was in list of candidates for interview. At that time, he was working in the Bank in 1986. He was appointed as messenger. Mr. Sharma Accountant told him that there was vacancy in the Bank. He was interviewed. He had not submitted application to the Bank, no interview call was received by him. Appointment letter was not given to him. That presently he is working in the Bank. He does work of keeping vouchers at cash counter.

7. The documents produced by workman Exhibit W-1 is letter of appreciation for participating in the National language at Regional Level in 1996, workman was paid Rs. 200 by gift cheques. In Exhibit W-1(a) the working days of workman for the period 1-7-75 to 31-12-75 are 183 days, 1-1-76 to 31-12-76 – 365 days, 25-6-82 to 9-10-82 111 days. The learned counsel for 2nd party Shri Ashish Shrotri submits that working days shown in document are manipulated. There is difference in writing in Column 1,2 & 3. The difference in writing can be seen even by naked eyes. Exhibit W-1(b) shows that 1st party workman worked as daily wage messenger from 1-9-83 to 30-10-83, 1-11-83 to 30-11-83. Exhibit W-1(c) certificate of temporary service shows that workman worked for 137 days in 1991, 164 days in 1992. Even if those documents are accepted, it is clear that workman was not continuously working. The working days 180 & 365 shown in Exhibit W-1(a) clearly shows entire period is shown as working days of workman. 2nd party in its Written Statement has shown details of working days of workman 109 days in 1982, 114 days in 1983, 137 days in 1991, 164 days in 1992. Workman has not produced documents about payment received by him. Any co-worker is not examined.

8. The evidence of management's witness Indu Bhushan Roy is on the point that workman was engaged on contract basis as casual labour on daily wages. Workman was free not to come next day. Management was also free not to engage workman. Workman was paid daily wages. Workman was not in continuous employment. He not completed 240 days continuous service during any of the calendar year. Workman was not appointed following selection process. At the time of engagement in 1982, workman was of 27 years of age. When he was given chance before selection committee, the committee found him over age, workman could not be appointed. Management's witness in his cross examination says he was not posted at Shahdol branch. He was working in Regional Office, Katni as Chief Manager. Presently he did not know workman. He was intermittently working from 1984. He does not know whether workman is still working in Shahdol branch. In 1986, examination was conducted for regular appointment. He denies that workman was selected at that time. He denies that workman had passed written examination and his name was appearing in the list. Management's witness says Bank provides employment as per rules. Management's witness claimed ignorance how many post of messenger was sanctioned in the Bank. He was also unable to tell present vacancies of messenger. No

documents are produced that workman was found overage and therefore employment was not provided to him. Witness of management denies that work of messenger is of perennial nature. The documents about working days of workman are not produced. There are no rules in the Bank for regularization of daily rated workers. Management's witness claims ignorance whether any other employee working with workman are regularized. Workman has not been regularized in service. Evidence of management's witness is in the form of denial of claim of workman that he was appointed after following selection process and workman was continuously working and continued more than 240 days service.

9. Burden lies on workman to prove that he was appointed following selection process and he was continuously working from 1-7-75 as messenger. Except document Exhibit W-1, 1(a to c), workman has not produced any document about the wages received by him since his initial appointment in 1975 till the dispute was raised, any co-worker is not examined. Document Exhibit W-1(1 to c) do not support claim of workman that he was continuously working as messenger with the Bank. Workman in his cross examination has admitted that he was not given appointment letter. Interview call was also not received by him. Documents about including his name in panel list are not produced by workman. The evidence of workman and documents produced are inadequate to establish that he is continuously working in the bank from 1-7-75.

10. During course of argument, learned counsel for workman Shri K.B.Singh argued that as per model standing orders on completion of six months service, workman is entitled for regularization in service. However the workman has not pleaded in his statement neither evidence is adduced by him about application of standing orders how many employees are working, whether 2nd party has certified standing orders. In absence of such pleading and evidence, argument advanced by learned counsel for 1st party cannot be accepted. Learned counsel for 1st party further submits that workman was continuously working since past more than 30 years. His services are not regularized by 2nd party amounts to unfair labour practice. The evidence of workman and documents produced by him do not establish that workman was continuously working for any specific period prior to the dispute was raised. Any documents are not produced by workman about his working in the Bank after 30-11-83. The document Exhibit W-1 shows that workman was rewarded for his participation in national language at Regional level in 1996. The dispute is referred as per order dated 14-9-05. No evidence is adduced by workman that he was working in Bank as messenger after 1996 as order of reference is of 14-9-05. In absence of such evidence, the allegations of unfair labour practice on part of management cannot be accepted. Learned counsel for workman Shri K.B.Singh relies on ratio held in

Case of H.D.Singh versus Reserve Bank of India and others reported in 1986-AIR-132. Reading of para 3 of above cited case show that appellant had presented himself for duty but he was not offered job when he reported for duty for reasons best known to the Bank, (ii) he was employed only for 4 days in the year 1974, 154 days in 1975 and 105 days in 1976, (iii) he was not told at the time when he accepted the job that his name would be struck off from the rolls if he passed the matriculate exam etc.

The facts of present case are not comparable therefore principles laid down in the judgment cannot be applied to case at hand. The evidence of workman clearly shows that he was not appointed after following selection process, appointment letter was not given to him. The claim of workman for regularization cannot be allowed. If such claim is allowed, it will certainly be back door entry in Bank service. For above reasons, I record my finding in Point No.1 in Affirmative.

11. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1286.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 11/11) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12011/51/2009-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1286.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/11) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 25.05.2016.

[No. L-12011/51/2009-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/11/11

General Secretary,
Dainik Vetal Bhogi Karmchari Sangathan,
Central Office,
F-1, Tripti Vihar,
Ujjain

...Workman/Union

Versus

Managing Director,
State Bank of Indore,
Head Office,
5, Yeshwant Niwas Road,
Indore

...Management

AWARD

Passed on this 2nd day of May, 2016

1. As per letter dated 2-2-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/51/2009-IR(B-I). The dispute under reference relates to:

“Whether the demand of the Union for payment of difference of wages from 24-4-97 to 13-12-2005 as per bipartite settlement to Shri Upendra Singh, PTS is justified? To what relief the Union/ workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim. Case of workman is that he was engaged as peon on 27-4-97 by Branch Manager Shri Kumar Satyendra, Bilaspur branch. That he worked more than 8 hours per day. He continuously worked more than 2450 days. He was paid wages Rs.40/- per day which were increased to 50,55,70,80,100. After completing more than 240 days continuous service, he raised demand for regular appointment and bonus. Therefore his services were terminated without notice, retrenchment compensation was not paid to him. His termination is in violation of Section 25-F of ID Act. He raised dispute about his termination of 2007 is pending. That workman is entitled to wages as per 7th & 8th Bipartite settlement at the rate 7th- 2750-5850, 8th- 4060-7560. In Chapter 16- Paras 5 to 8 of Shastry Award, the employees are classified. Workman was working as peon under different Branch Manager. He claims difference of wages.

3. 2nd party filed Written Statement opposing claim of workman. 2nd party submits that State Bank of Indore is merged in State Bank of India as per notification dated 20-7-2010. The recruitment of employees in the Bank is made as per the recruitment rules , list called from Employment Exchange, Branch Manager has no power to appoint sub staff security guard etc. it is denied that workman was working 8 hours per day from 27-4-97. It is denied that workman had worked more than 240 days. It is denied that after workman claimed regular appointment and bonus, his services are terminated without notice. It is submitted that reference is not tenable as it is not raised by Registered Union. All adverse allegations of workman are denied.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of the Union for payment of difference of wages from 24-4-97 to 13-12-2005 as per bipartite settlement to Shri Upendra Singh, PTS is justified?	In Negative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to demand of Union for difference of wages as per Bipartite settlement to 1st party workman. Management has denied claim of workman filing detailed Written Statement.

6. Workman filed affidavit of his evidence. Workman states that from 27-4-97 to 13-12-05, he was working as peon. He was working for 8 hours every day. He completed more than 240 days during each of the year 1997 to 2005, bonus was paid to him. From evidence of workman, documents Exhibit W-1, W-2 are admitted in evidence. In his cross-examination, workman says he is member of daily wage Bank employees Union since 1998. His name was not sponsored through Employment Exchange. He claims ignorance whether post was advertised. He had submitted application to the Bank, its copy is not produced on record. He was not given oral or written test. He was paid wages for his working days. Charges for Sunday was not paid to him. He denies that his attendance was not maintained. He denies that he had not complained about wages paid to him to the higher authorities.

7. Management filed affidavit of witness Shri Rakesh Sharma supporting contentions in Written statement filed by 2nd party. As per management's witness, workman was engaged on daily wage basis as per exigencies after work was over, workman was not required to report to work. His engagement was purely casual on daily wages. The wages settled were paid to the workman. Workman had not completed 240 days continuous service. Workman is not entitled to regular pay scale wages.

8. In his cross-examination, management's witness says he was not posted in Bilaspur branch from 1997 to 2005. Workman was engaged on daily wages. He claims ignorance whether any selection process was followed before his engagement or permission of Controlling Authority was taken before engagement of workman. Attendance register of workman is not maintained. Wages were paid by petty cash to him. Wages paid to workman at the rate of Rs.100 per day, workman was paid gratuity. Management's witness claims ignorance whether workman filed proceeding before ALC, Bilaspur for bonus. Management's witness claims ignorance about payment of bonus to workman.

9. The document Exhibit W-1 is order for payment of gratuity Rs.13,500 by Controlling Authority. Exhibit W-2 is order passed in appeal upholding the order of payment of gratuity. The evidence of workman is silent about the 7th & 8th Bipartite settlement. Copy of those settlement is not produced. Learned counsel for 2nd party submitted that workman was not regular employee, he is not entitled for scale wages as per settlement. The evidence of workman in cross examination is clear that he was not appointed following recruitment process. The daily wage employee cannot claim wages at the rate of regular employee. Therefore I record my finding in Point No.1 in Negative.

10. In the result, award is passed as under:-

- (1) The demand of Union is not proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1287.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 8/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-41012/23/2009-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1287.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Paschim Madhya Railway and their workmen, received by the Central Government on 25.05.2016.

[No. L-41012/23/2009-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/8/2011

Shri Motilal Sahu,
 S/o Shri Shyam Lal Sahu,
 H.No.151, Rajiv Gandhi Nagar,
 Near Water tank (over head tank),
 Katanga, Jabalpur

...Workman

Versus

Mandal Rail Prabhandhak (kartik),
 Paschim Madhya Railway,
 Jabalpur

...Management

AWARD

Passed on this 5th day of May, 2016

1. As per letter dated 10-1-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-41012/23/2009-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of DRM, Paschimi Madhya Railway, Jabalpur in terminating services of Shri Moti Lal Sahu instead of regularizing him after employing him from 31-3-79 and from 25-1-83 to 22-6-84 is justified? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman failed to participate in reference proceeding. Ist party is proceeded ex parte as per order dated 3-5-2013.

3. 2nd party in Written statement contented that under Section 2-A of ID Act, no individual employee can raise ID for regularization. The reference is not tenable. Applicant had contented in application under Section 2-A that he was working as casual labour during the period 31-3-78 to 19-3-79. The dispute for reinstatement is raised after 30 years is not tenable. That Ist party in application submitted before ALC Jabalpur in conciliation proceeding had contented that he worked intermittently during period 31-3-78 to 18-8-78, 19-9-78 to 18-2-79. Thereafter intermittently he worked in the year 1984, 19-1-85 to 18-2-85, 1-1-87 to 18-1-87. The terms of reference are inconsistent with the contentions in the application submitted by workman. That workman did not complete 240 days continuous service, he is not covered under Section 25 B of ID Act. Workman is not entitled to protection under Section 25-F of ID Act of ID Act. On scrutiny, contention of Ist party workman was found 7th standard. The required qualification for Group D category is 8th standard. Workman is not entitled to reinstatement.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of DRM, Paschimi Madhya Railway, Jabalpur in terminating services of Shri Moti Lal Sahu instead of regularizing him after employing him from 31-3-79 and from 25-1-83 to 22-6-84 is justified?	Reference could not be decided on merit due to non-participation of parties.
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief

REASONS

5. Workman has not participated in reference proceeding. He is proceeded ex parte. 2nd party filed Written Statement contending that workman had not completed 240 days continuous service. He was not possessing required educational qualification. However 2nd party has also not participated in remaining reference proceeding. No evidence is adduced. Evidence of management is closed on 2-5-2016. Both parties not properly participated in reference proceeding, the reference could not be decided on merit.

6. In the result, award is passed as under:-

- (1) The reference could not be decided on merit due to non-participation of parties.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1288.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 12/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/275/2003-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1288.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/275/2003-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/12/2004

General Secretary,
State Bank of Indore Employees Union,
C/o State Bank of Indore,
Zonal Office, I,
Arera Hills, Jail Road,
Bhopal

...Workman/Union

Versus

Zonal Manager,
State Bank of Indore,
Zonal Office, Arera Hills, Jail Road,
Bhopal (MP)

... Management

AWARD

Passed on this 5th day of May, 2016

1. As per letter dated 26-2-04 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/275/2003-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of General Manager(O), State Bank of Indore in terminating the services of Shri Lakshmi Narain Bairagi w.e.f. 13-8-02 and not regularizing him is justified? If not, to what relief the workman is entitled for?”

2. After receiving order of reference, notices were issued to the parties. Statement of claim on behalf of 1st party workman is filed by Union. Statement of claim is filed at Page 5/2 by Union. Case of workman is that he was appointed as temporary employee in Bank on 1-1-1997 after vacancy caused by death of Sajjan Singh Thakur, peon/daftary. The service condition of employees are governed by award, bipartite settlement. As per provisions of bipartite settlement dated 19-10-66 clause 20.8, the temporary employee may be appointed without filling permanent vacancy for maximum period of 3 months. During this period, Bank shall have to make arrangement to full up the vacancies. In the matter of 1st party, no employee was appointed in place of Shri Sajjan. Shri Bairagi was given permanent appointment of peon as per bipartite settlement. That he completed 240 days continuous service during the period of 12 months. His services

were terminated w.e.f. 13-8-02 instead of regularizing his services. On such ground, Ist party prays for regularization of the services of Ist party workman.

3. 2nd party filed Written Statement at Page 6/1 to 6/8 opposing claim of workman. Case of 2nd party is Ist party workman was not employed as permanent employee. He has not attained permanent status. That workman worked as casual worker in sometime. He was doing sweeping work, supplying water. It doesnot give him right for absorption in service. It would amount to back door entry in violation of the rules and regulations. Employer employee relationship with Ist party workman is denied. That 2nd party Bank is established under SBI Act, 1959. The Bank has its own service regulations for recruitment for clerical and subordinate staff. Workman was not appointed following recruitment rules. he was not sponsored through Employment Exchange. Appointment letter was not given to him. Workman has not completed 240 days continuous service. There is no question of termination of his service. As workman was not appointed by the Bank following recruitment rules, the reference is not tenable. Engaging casual labour for few hours doesnot give him right as employee of the Bank. Rates of payments prescribed by Bank for regular employees are not applicable to the workman. Claim of workman is not tenable. Workman was not working against permanent vacancy after death of Sajjan Singh. The contentions of workman in this regard are false. After death of Sajjan singh Thakur, vacant post was duly filled by permanent staff on 15-7-98 as per guidelines and circulars. Clause 20.8 of Bipartite settlement dated 19-10-66 are applicable only to the temporary employees employed by the Bank. Workman was engaged as casual worker cannot be termed temporary employee. Ist party workman was engaged as casual mazdoor for few hours for cleaning sweeping work. He was paid remuneration as per his request. On such contentions, 2nd party prays reference be answered in its favour.

4. Ist party submitted rejoinder at Page 9/1 to 9/2 reiterating contentions in statement of claim and denying adverse contentions in Written Statement filed by management.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of General Manager(O), State Bank of Indore in terminating the services of Shri Lakshmi Narain Bairagi w.e.f. 13-8-02 and not regularizing him is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. The term of reference pertains to legality of termination of workman and denial of regularisation. The management has opposed claim of workman filing detailed Written Statement. Ist party workman filed affidavit of his evidence supporting his claim. Workman has stated that he was temporarily appointed in Latery branch Vidisha on 1-1-1997 after death of Sajjan Singh Thakur. That he completed 240 days continuous service. He was paid bonus as per rules. as per circular No. 247/03, 37/93, employees who completed 240 days continuous service are eligible for regularization he claims eligible for regularization as per above circulars. Affidavit is absolutely silent about his termination from service. In his cross-examination workman says in 1997, Shri Omprakash Garg was Manager in Lateri branch. Only 4 persons were working in that branch. Mr. Dinesh working as Daftary, Kailash peon, Harkishan Dhobi and workman himself were temporary. Appointment letter was given to him. He was paid on daily wage basis for his working days. Certificate of Branch Manager is not produced by him about his working from 1993 to 1997. That he had not submitted application for regularization of his service, he was not interviewed, his name was not called from Employment Exchange, post was not published in newspaper. He denies that after termination of his service, he was called intermittently for work.

7. Management's witness Shri Naresh Kumar filed affidavit of his evidence supporting contentions in Written Statement filed by workman. Management's witness claims that documents relating to the Ist party workman were perused by him before filing his affidavit. Ist party workman was not appointed as permanent employee of the Bank against vacant post. The post was not advertised. Workman was not sponsored through Employment Exchange. Workman was engaged for casual work. He doesnot get right for regularization. The circulars No. 247/03 & 37/93 clause 20.8 of Bipartite settlement dated 19-10-66 are not applicable in the matter of workman. In his cross-examination, management's witness says Ist party workman was working in the Bank on daily wages during past 4-5 years. He is working in lateri branch. He denies that after death of Sajjan Singh, workman was appointed in his place. Management's witness claims ignorance about the correspondence in the matter with Head Office. As per the

proceeding filed before RLC, workman was paid bonus. Workman is not paid bonus as regular employee of the Bank. Management's witness admits that if daily wage employees works 240 days in a year, he is eligible for regularization. Management's witness was unable to say whether workman was eligible for regularization. Management's witness was unable to say whether workman was eligible for regularization.

8. 2nd party has produced copy of death certificate shows that workman died on 20-3-14. Ist party has not produced circulars No. 273/03& 37/93 relied by him. Workman was not interviewed, his name was not sponsored through Employment Exchange. Copy of Circular dated 13-8-93 is produced on record. It pertains to regularization of part time employees who worked 240 days during period of 12 months. Said circular further provides that the working for 240 days in a calendar year should be prior to the period 1982 would not be accepted. Other conditions relates to relaxation of age to SC ST , Ex-Servicemen , Educational qualification should be 8th standard. Statement of claim filed by workman and his evidence are silent on those points. Claim for regularization of workman is not established. Besides it, workman has died and consequently reinstatement of workman is impossible. Ist party workman has absolutely not pleaded or adduced evidence on the point of legality of termination of his service. Therefore I record my finding in Point No.1 in Affirmative.

9. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1289.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 190/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/287/2001-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1289.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 190/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/287/2001-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/190/2001

General Secretary,
Dainik Vetal Bhogi Bank Karamchari Sangathan,
9, Sanwer Road,
Hardeo Niwas,
Ujjain

...Workman/Union

Versus

General Manager (Operations),
State Bank of Indore,
Zonal Office,
Indore (merged in State Bank of India)

... Management

AWARD

Passed on this 4th day of May 2016

1. As per letter dated 7-12-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/287/2001-IR(B-I). The dispute under reference relates to:

“Whether the action of the General Manager (Operations), State Bank of Indore, Head Office Indore in not regularizing instead terminating the services of Shri Rajnarayan Raikwar even after working for more than 240 days every year during the period 1-1-1996 to 8-4-99 at Chhattarpur branch of State Bank of Indore is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at 4/1 to 4/10. Case of Ist party workman is that there was bipartite agreement between management and All India State Bank of Indore Employees Committee dated 13-7-93 for regularization of temporary employees working 240 days in a year. Ist party workman was engaged on daily wages for sweeping cleaning work as peon. From 1-1-1996, he was working with devotion. Workman was paid under vouchers for Monday to Saturday. Branch Manager Shri N.S.Tirkhi told him that he will be paid under different kinds of bills. Record of his attendance would not be entered. That he continuously worked on 27-3-96 to 4-9-97. The details of the payment are shown in Para-9 of statement of claim. That Branch Manager Shri B.R.Singh was taking payments under voucher. Workman had filed conciliation proceeding before ALC, Indore for regularization. That during pendency of said proceeding, his services would not be terminated. His services are terminated on 7-4-99 during pendency of said proceeding. Workman reiterates that he completed more than 240 days continuous service. He was not regularized. After termination of his service, Shri Rajendra Yadav was engaged by 2nd party. Workman was paid bonus Rs.100 per year during the period 1-1-1996 to 8-4-99. He was not paid bonus as per the working days. His services are terminated without notice, retrenchment compensation is not paid to him. Termination of his service is in violation of Section 25-F,G,N of ID Act. Policy of last come first go was not followed. On such ground, Ist party workman is praying for reinstatement with backwages and difference of bonus with interest.

3. 2nd party filed Written Statement at Page 10/1 to 10/8 opposing claim of workman. 2nd party submits that service conditions of employees of the Bank are covered by Sastri Award, Dewai Award and Bipartite settlement. Award staff consists of different categories. The sub staff are entitled to various kinds of leave. When sub staff remained absent without prior notice, Bank engaged daily wagers to work in leave vacancy of sub staff. Such daily wagers are also engaged whenever there is temporary work load. Daily wager fulfills required qualification and sponsored through Employment Exchange for empanelment. The panel of daily rated casual labours is maintained district wise as per seniority. Ist party workman was also sponsored through Employment Exchange. He was not engaged following the required conditions. Workman was engaged for 2-3 hours at agreed rate for cleaning sweeping work in the branch premises. 2nd party further submits that claim raised by workman is not covered as dispute under Section 2K of ID Act. Workman was never appointed by Bank. He had not undergone recruitment process therefore the reference is not tenable.

4. Shri Ram Nagwanshi is a dismissed employee of the Bank claims to be General Secretary of Union is not competent to raise the dispute. 2nd party has referred to ratio held in various cases. That workman was never appointed by Bank. His name was not sponsored through Employment Exchange to qualify as daily wager. The dispute should not have been referred. On such ground, 2nd party prays reference be answered in its favour.

5. Ist party workman filed rejoinder at Page 13/1 to 13/3 reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the General Manager (Operations), State Bank of Indore, Head Office Indore in not regularizing instead terminating the services of Shri Rajnarayan Raikwar even after working for more than 240 days every year during the period 1-1-1996 to 8-4-99 at Chhattarpur branch of State Bank of Indore is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?”	As per final order.

REASONS

7. The term of reference pertains to denial of regularization of workman and legality of termination of his service. The claim of workman is opposed by management filing detailed Written Statement. Though objection under Section 36(4) of ID Act is raised by 1st party and management has raised objection about locus standi of Shri Ram Nagwanshi for representing the workman, at the time of hearing, the above objections were not pressed.

8. Workman filed affidavit of his evidence. Workman has stated that he was engaged on daily wages Rs.20 per day from 1-01-1996. His wages were increased to Rs.25,30,40,50. He worked with devotion. He was paid wages under voucher for Monday to Saturday- six days in a week. The payments were also made in different names. That he worked more than 240 days every year bonus Rs.100 per annum was paid to him. That he filed conciliation proceeding before ALC, Indore. His services were terminated during pendency of conciliation proceeding on 4-04-99 in violation of Section 33-A of ID Act. In his cross-examination, workman says he was working in Chhattarpur branch of SBI from 1-1-96 to 8-4-99 under different Branch Managers. Appointment Letter was not issued to him. He was not interviewed. He was doing work of opening Bank, keeping ledgers, evidence of workman that he had completed 240 days during each year is not challenged in his cross examination.

9. Workman has produced original certificate of working but those documents are not proved by workman in his evidence. He has produced certified copies of those certificates which were admitted and marked Exhibit W-8, W-9 in R/165/02. The certified copies are admitted. The certificate clearly shows that workman was working in the Branch from 1-1-1996 to 20-9-97 & 46 days from 9-3-98 to 23-4-98. The evidence of workman is corroborated by those documents. Workman had submitted application for production of documents. Application was opposed by management that the documents are not maintained.

10. Management filed affidavit of witness Shri Taj Ahmed Khan supporting contentions in Written Statement that workman was not appointed as peon. He was not working during 1-1-1996 to 8-4-99 continuously. Workman had not completed more than 240 days working. Workman was engaged for cleaning, sweeping working one hour morning, one hour evening, his name was not sponsored through Employment Exchange. Management's witness in his cross say that he was not posted in Chhattarpur branch during 1996 to 1999. Any document is not produced with his affidavit. He had not taken information from other Branch Managers. Payment was made to workman under petty vouchers but he has not seen those documents. Payment was made to workman on the same day of working for his working days. Workman was not issued retrenchment notice. He was not paid retrenchment compensation. He claims ignorance whether after termination of workman, one Rajendra Yadav was engaged in his place. The documents regarding payment of bonus are admitted and documents admitted by management witness is marked Exhibit W-5. Said documents is settlement dated 13-7-93 between management and Union one time opportunity was allowed for absorption on permanent basis to sub staff working more than 240 days during 12 consecutive months. Clause IV of the Exhibit W-5 provides interview by Committee for permanent employment and absorption. Evidence of workman is silent on the point. Evidence on record clearly shows workman worked more than 240 days during 1-1-96 to Feb-97. His services are terminated without notice therefore retrenchment compensation is not paid to him. Therefore the termination of workman is illegal for violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

11. Point No.2 In view of my finding in Point No.1 termination of workman is illegal for violation of Section 25-F of ID Act, question arises whether workman is entitled for reinstatement with backwages. As per evidence of workman, he worked more than 240 days during Jan-96 to Feb-97. Appointment letter was not issued to him. Workman was not interviewed. Recruitment process was not followed before his engagement. Learned counsel for 2nd party submitted copies of award in R/149/03. In said reference, ratio held in case of Azar Krishi Evam Prodyogidi Vishwavidyalaya versus United Trades Congress reported in 2008(2)SCC-552 was considered. Ratio held in the case that working for more than 240 days continuously from date of engagement by itself does not confer any right by workman to be regularized in service. In my considered view, reinstatement of workman would not be justified. Instead compensation Rs.75,000 would be appropriate. Accordingly I record my finding in Point No.2.

12. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) 2nd party is directed to pay compensation Rs.75,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1290.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 53/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12011/40/09-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1290.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 25.05.2016.

[No. L-12011/40/09-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/53/2010

General Secretary,
Dainik Vetan Bhogi Bank Karamchari Sangathan,
F-1, Tripti Vihar, Karambhoomi,
In front of Engineering College,
Ujjain

...Workman/Union

Versus

Dy.General Manager,
State Bank of India,
Zonal Officer,
Vijay Nagar,
Jabalpur

...Management

AWARD

Passed on this 5th day of May 2016

1. As per letter dated 30-11-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/40/09-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of State Bank of India in not paying wages to Shri Dilip Chohtel, Sweeper, SBI, City Branch, Jabalpur as per revised pay scale from 1-6-07 is legal and justified? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through General Secretary, Daily wage Bank employees Union, Ujjain. Case of Ist party workman is that he was engaged as sweeper in CITU Branch Jabalpur by Branch Manager Shri Nema. The area of Branch building is 7000sq.ft. the building consist of 3 stories. He was paid wages Rs.50 per day. He was working 8 hours per day. He completed 240 days service. The wages were increased to Rs.70,80 per day. Wages were paid from petty cash in bogus names of Pradeep, Vinit. When workman claimed regular appointment and bonus, workman was terminated without notice, retrenchment compensation was not paid to him. Ist party has raised dispute vide R/10/10 challenging legality to termination of his service. Workman prays that difference of wages as per 8th & 9th settlement. Workman further submits that any difference of wages are also paid to temporary employees of Karur Vyashi Bank, Bank of Maharashtra. The pay scale of sub staff under 8th 9th settlement are shown Rs.4060-7560, 5500- 11000 respectively. Ist party has also contented that violation of the settlement is punishable under Section 29 of ID Act.

3. 2nd party filed Written Statement opposing claim of workman. 2nd party reiterates that appointment and service conditions of its employees are covered by the circulars issued by RBI, SBI. Name of workman was not sponsored through Employment Exchange, the post was not advertised. Workman was not appointed following recruitment procedure. He was engaged for 2 hours as per exigency of work. Workman did not work for 8 hours. That regular peon in the Bank are not doing work of cleaning, sweeping therefore for said work daily wages employees are engaged for one hour morning at the agreed rate of wages. The wages are paid for one hour before opening of Bank and one hour closing of the Bank. Workman had not completed 240 days continuous service. Workman was never appointed as regular peon. So called Union is not competent to raise dispute as it is not registered under Trade Union Act. The reference is not tenable. Workman is not entitled to difference of wages claimed by him.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of State Bank of India in not paying wages to Shri Dilip Chohotel, Sweeper, SBI, City Branch, Jabalpur as per revised pay scale from 1-6-07 is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

5. Point No.1- Ist party workman is claiming difference of wages as per 8th & 9th bipartite settlement contending that he was engaged on daily wages for cleaning, sweeping work from 1-6-07. His services were terminated on 9-1-09. The claim of workman is opposed by 2nd party filing written Statement. Workman filed affidavit of his evidence supporting his contentions in statement of claim that he was engaged on daily wages by city branch, Jabalpur. The area of the branch is 7000 sq.ft. The wages were increased to Rs.70, 80 per day. Wages were paid in names of different persons Pradeep and Vineet from Petty Cash. That during conciliation as per letter dated 27-8-09, he was paid Rs.1286 & 1046 as bonus. In his cross-examination, workman says before engaging him, post was not advertised. Any recruitment process was not followed. He denies that he was engaged as per exigency of work. He was paid wages for his working days. Area of the branch as 7000 sq.ft is not challenged. Ist party workman produced documents Exhibit W-1,2 relating to payment of bonus during the year 1007-08, 08-09, the rate of wages paid is shown in Exhibit W-1. Rs.1000 per month July to August 2007, Rs.1090 from Sept to November 07, Rs. 1840 in December -07, March-08, Rs.2000 in January, February-08. In July-July-08, he was paid Rs.2080, 2160 and different amount paid in other works. Exhibit W-2 is copy of cheque of payment of bonus Rs.1286/- . Document Exhibit W-3, W-4 shows the rates of wages payable to part time employees. The area of branch is about 5000 sq.ft. Full time wages on par with other full time non-messenger staff is not payable. The rate is not disclosed. The area of the branch is less than 1200. Wages payable to part time employees Rs.80 per month. If area of branch is 1200 to 2000sq.ft and working hours is 6 to 13 hours per week, 1/3rd scale wages are payable to part time workman. What were full time wages of non-messenger staff, evidence is not adduced by the parties.

6. Evidence of management's witness Shri Yatish Kumar Srivastava is filed supporting contentions in Written Statement. Management's witness in his cross examination says he was not posted in city branch Jabalpur during 2007 to 2009. That he had not seen original of Exhibit W-3, W-4. He was unable to tell wages prescribed as per Exhibit W-3,4 were paid to workman. 9 settlement was settled on 27-4-2010. Exhibit W-4 is settlement between parties on 18-2-97. Bipartite Agreement Exhibit W-3, W-4 are binding on 2nd party, wages as per Exhibit W-3,4 are not paid. Workman is entitled to full time wages for the post of non-merger grade. Therefore for above reasons, I record my finding in Point No.1 in Negative.

7. In the result, award is passed as under:-

- (1) The action of the management is not proper and legal.
- (2) Workman is entitled to full time wages to non-messenger grade post for working days during the period 1-6-07 to 9-1-09 as per the Bipartite Agreement dated 18-2-97.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1291.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 78/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12011/39/2011-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1291.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 25.05.2016.

[No. L-12011/39/2011-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/78/2011

General Secretary,
Dainik Vetan Bhogi Karmchari Sangathan,
F-1, Tripti Vihar,
Opp Engineering College,
Ujjain

...Workman/Union

Versus

Chief General Manager,
State Bank of India,
LHO Hoshangabad Road,
Bhopal (MP)

... Management

AWARD

Passed on this 2nd day of May 2016

1. As per letter dated 2-9-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/39/2011-IR(B-I). The dispute under reference relates to:

“Whether the demand of the Union, Dainik Vetan Bhogi Bank Karamchari Sangathan for appointment of Shri Ajay Kumar Salwar as Messenger with State Bank of India in terms of judgment dated 28-1-04 of Hon’ble High Court of Madhya Pradesh, Jabalpur Bench in Writ Petition No.2790 of 2000 is legal and justified? To whar relief the workman/Union is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through General Secretary of Union. Case of Ist party workman is that he was working as temporary messenger with 2nd party from 8-4-85 to 8-7-85. He was discontinued from work for the reason that employees could not be continued more than 70 days. There was settlement between management and Union providing absorption of temporary employees working more than 30 days. Ist party workman had worked for 76 days as sub staff. As per letter dated 18-7-89, he was called for interview on 28-7-89. He was interviewed on said date. Workman being of SC ST category was paid travelling allowance. Workman was again called for interview on 18-2-97 at Khandwa but he was not interviewed for the reason that he was already interviewed in the year 1989. Workman alleged malpractices and irregularities in interview of 1997. Head of Committee Mr. Karkare was suspended after complaint. Workman had filed Writ Petition No. 2790/00. Said Writ Petition was decided on 28-1-04. Bank had agreed to give opportunity to the petitioner through fresh recruitment process. After judgment in Writ Petition, workman was not given regular appointment. He was engaged on

daily wages. 2nd party had not given opportunity to the workman as fresh recruitment process is not undertaken. On such ground workman prays for regular appointment.

3. 2nd party filed Written Statement opposing claim of workman. 2nd party submits that temporary daily wages employees were given opportunity as per settlement dated 18-11-87. The eligible employees were called for interview who temporarily worked till 31-7-88. The panel of selected candidates was valid till March 1997. The available vacancies were filled from selected candidates. Workman had worked for 76 days. He was called for interview in 1989 but it appears that he was not found eligible for permanent employment on the ground that his working days were less. That non-selection of Ist party is not subject matter of reference. Elaborate reasons for his non-selection are not given. Workman filed Writ Petition No. 2790/2000. Hon'ble High Court vide order dated 28-1-04 observed that in case only question survive is the petitioner may be given weightage in the case when future vacancy occurred. For such prayer, petitioner shall file representations to the respondents. In case petitioners filed representations for giving weightage to the past service rendered, the representations be considered in accordance with law. The question need not be decided at this stage. 2nd party submits that order passed by High Court is clear. No direction was issued for granting appointment to Ist party on post of messenger. Ist party workman was free to submit application whenever advertisement for recruitment was made. 2nd party reiterating above contentions denied all adverse contentions of workman submitting that same are not relevant. 2nd party denied that workman was paid TA when he was called for interview in 1989. That candidates interviewed in 1989 was not required to be interviewed again in 1997. It is denied that persons having less number of days than workman were given appointment in 1997. That Shri G.K.Sarsiya was having number of days than workman. He was offered appointment. The order passed by Hon'ble High Court in Writ Petition on 28-1-04 is not disputed. Hon'ble High Court declined to make interference that Ist party may make representation which has to be considered according to law. Workman was free to submit representation. He is not entitled for appointment. 2nd party submits there is no cause of action for reference.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of the Union, Dainik Vetal Bhogi Bank Karamchari Sangthan for appointment of Shri Ajay Kumar Salwar as Messenger with State Bank of India in terms of judgment dated 28-1-04 of Hon'ble High Court of Madhya Pradesh, Jabalpur Bench in Writ Petition No.2790 of 2000 is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to demand of Union for appointment of workman as per order dated 20-1-04 by Hon'ble High Court, MP, Jabalpur in WP No. 2790/00 copy of order passed by Hon'ble High Court is produced at Exhibit W-5. It is clear that only question which survive is that petitioners given weightage in the case when future vacancy occur. No directions are given by Hon'ble High Court for giving appointment to Ist party as messenger.

6. Workman filed affidavit of his evidence supporting his contentions in statement of claim that as per settlement dated 17-11-87, he was called for interview on 18-7-89. That he worked for 76 days during the period 8-4-85 to 8-7-85. Again he was called for interview on 18-2-97 but he was not interviewed for the reasons he was interviewed in the year 1989, he was interviewed in 1997. The documents about it are not produced. He had not submitted application to the Bank. He filed Writ Petition in High Court. He did not remember what judgment was passed by Hon'ble High Court in said Writ Petition. He knows Gopal Krishna Sargany. He was working in Head office as messenger. He belong to General Category.

7. Management filed affidavit of witness Shri Mohanlal Kori supporting contentions of management in Written Statement that workman had not completed 240 days continuous service during 12 months, 270 days service in block of 36 calendar months, 270 days aggregate temporary service in continuous block of 36 calendar months as per the settlement. Workman had worked for 76 days. He was called for interview in 1989 and found not eligible for permanent employment. As per order passed in Writ Petition No. 2790/00, workman is not entitled for appointment. Management's witness in his cross says that he was not posted in Piparia branch during 1985 to 1987. Before filing affidavit of his evidence, he had received information from earlier Branch Manager Mr. Khare. He had no discussion with Branch

Manager working during 1985 to 1987. The area of the branch building is 5000 sw.ft, 4 post of sub staff are sanctioned. Out of it, 3 sub staff are working in the branch, one post is vacant. Work is carried through contractor Narmada construction. Bipartite Settlement and documents are not produced. Workman was interviewed in 1989, select list is not produced, some pages of select list are produced by workman, the same are not valid evidence. Considering the order passed by Hon'ble High Court in Writ Petition, no direction is given for appointment of workman as messenger. The demand of Union is not legal. Therefore I record my finding in Point No.1 in Negative.

8. In the result, award is passed as under:-

- (1) The demand of Union is not legal and proper.
- (2) Workman is not entitled to any reliefs.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1292.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 101/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/20/2003-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1292.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 101/03) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/20/2003-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/101/03

General Secretary,
Daily Wages Bank Employees Association,
9, Sanwer Road,
Ujjain

...Workman/Union

Versus

General Manager (Operations),
State Bank of Indore,
Head Office, 5, Yeshwant Niwas Road,
Indore

...Management

AWARD

Passed on this 2nd day of May 2016

1. As per letter dated 27-5-03 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/20/2003-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of General Manager (O), State Bank of Indore in terminating the services of Shri Vishnu Prasad Banjara w.e.f. 15-6-2001 and not regularizing him and also not paying him

bonus is justified? If not, what relief the LRs of workman Smt. Deepa BAI, Kumari Babli, Kumari Priti, Sonu, Monu, Smt. Rukmabai is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman died during pendency of reference. His LRs are brought on record. Statement of claim of Ist party is submitted at Page 13/1 to 13/7. Case of workman is that he was engaged for cleaning sweeping work on wages Rs.35/- per day from March 92. He was working with devotion without any complaint. He was paid wages for six days in a week. He was not paid wages for holidays. There was bipartite agreement dated 13-7-93 settled between Bank management and Union. He was working more than 240 days for 9 years. He requested required appointment and payment on bonus. On that his services were terminated without notice on 15-6-01. Retrenchment compensation was not paid to him. He raised dispute before ALC Bhopal. Management in its reply admitted his engagement and payment of wages. His service are terminated overlooking his unblemished service record for 9 years. He is covered as employee under Section 25 of ID Act. His services are terminated under Section 25-F of ID Act. 38 daily wage employees are continued on work. Workman is not engaged. Thereby 2nd party violated Section 25 G,N of ID Act. On such ground, Ist party prays for his reinstatement with backwages.

3. 2nd party filed written statement opposing claim of workman at Page 4/1 to 4/6 opposing claim of workman. 2nd party submits that workman was never engaged by the Bank. Reference is vague. Workman was neither appointed or terminated by Bank, reference is vague. Workman was neither appointed nor terminated by Bank, reference is not tenable. 2nd party Bank runs as per the provisions of State Bank of India Act, 1959. Bank has its own service rules regulations recruitment of Class III, IV employees. Workman was not appointed following recruitment process, his name was not sponsored through Employment Exchange. Workman not completed 240 days continuous service during any of the year. That Bank engaging or utilizing services for 1-2 hours for fetching water, sweeping branch does not give Ist party right of Bank employee. Workman was engaged for 1-2 hours. His dis-engagement is covered under Section 2(oo)(bb) of ID Act. It is not retrenchment. Workman is claiming back door entry in Bank service. The reference is not tenable. 2nd party denies employer employee relationship. Workman is not entitled to any relief. He is not entitled to bonus. Reference be answered in favour of management.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of General Manager (O), State Bank of Indore in terminating the services of Shri Vishnu Prasad Banjara w.e.f. 15-6-2001 and not regularizing him and also not paying him bonus is justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

5. The term of reference pertains to legality of termination, denial of regularization and non-payment of bonus to deceased workman. Though application is submitted under Section 36(4), when the matter came for hearing and evidence, no objection was raised by either parties. Workman filed affidavit of his evidence but he died. Workman could not be cross examined. In his affidavit of evidence, workman says he was working in State Bank of Indore which is merged in State Bank of India. He was working in Sujalpur Mandi branch from March 1992 to 15-6-01. He was not served with notice. Retrenchment compensation was not paid to him. After death of deceased workman, his widow Deepabai filed affidavit of his evidence supporting contentions of workman working on daily wages in Bank during above said period. Workman died on 1-1-2013. In her cross-examination, widow of workman says her husband was working in State Bank of Indore merged in State Bank of India. Her husband was working as cashier. She claims ignorance what salary was received by her husband. Her husband worked for 15-16 years in Bank. Her husband was paid bonus. After termination of his service, her husband was working on wages.

6. Management's witness Sanjeev Verma filed affidavit of his evidence stating that deceased workman not worked in earlier State Bank of Indore. He did not work for 240 days in any calendar year. Work of subordinate staff/ peon was not taken from him. In his cross-examination, management's witness says during 1992 to 2001, he was not posted in Sujalpur branch. From August 2012. He is Manager of said branch. He not received information from Branch Manager working during 1992 to 2001. He was unable to tell how many sanction post of messenger were in the branch in 2000. The area of Sujalpur branch is about 2500 sq.ft. branch holding is double storied. Any selection procedure was not followed before engaging workman. Permission of Controlling Authority was not taken before his engagement. Work of temporary nature was taken from workman. Appointment letter was not given to him. He was unable to tell how wages were paid to the workman. Management's witness admitted documents Exhibit W-5 to W-8. He claims ignorance about payment of retrenchment compensation. Work of cleaning is presently carried through contractor.

7. Ist party is challenging termination for violation of Section 25-F,G,N of ID Act, ownus is on the workman to establish that he worked more than 240 days preceding 12 months of his termination. The documents Exhibit W-1 is order of reference, W-2 is copy of settlement dated 13-7-93 providing absorption of temporary employees as one time opportunity. List of 20 temporary employees was prepared. Exhibit W-4 reply submitted in ALC office finds clear reference that workman was engaged as casual labour as per exigency from July 95 for cleaning, sweeping, coolie work. Exhibit W-6 refers to addressed to Branch Manager by LEO refers to copy of representation received from Union advising to arrange payment of bonus. Exhibit W-7 is the document in which the working days of deceased workman from July 1995 to May 2001 are shown. Exhibit W-8 pertains to complaint on General Secretary, Daily Wage Bank Employees Union regarding payment of bonus. The working days of workman are shown in document P-14 computing the bonus 210 days in 1999, 256 days in 2000. The documentary evidence on record corroborates evidence of deceased workman and his evidence. Workman completed more than 240 days in the year 2000 preceding 12 months of his termination. No evidence is adduced by management about issuing notice of termination or payment of retrenchment compensation rather management witness had denied deceased workman was entitled to such benefits on the ground that deceased workman did not work for 240 days during any of the year. The evidence is clear that deceased workman had worked more than 240 days 12 months preceding termination of his service. He was not served with termination notice, retrenchment compensation was not paid to him. Therefore I record my finding in Point No.1 in Negative.

8. Point No.2- In view of my finding in Point No.1 deceased workman was terminated in violation of Section 25-F,G of ID Act. Workman died during pendency. Therefore there is no question of his reinstatement. Considering period of working of deceased workman, in my considered view, compensation Rs.75,000/- would be appropriate. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under:-

- (1) The action of the management is not proper and legal.
- (2) Management is directed to pay compensation Rs.75,000 to the LR of deceased workman .

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1293.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 41/06) को प्रकाशित करती है जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/235/2005-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1293.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/06) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 25.05.2016.

[No. L-12012/235/2005-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR NO. CGIT/LC/R/41/06

General Secretary,
Prathadith Karamchari Kalyan Manch,
9, Sanwer Road,
Ujjain

...Workman/Union

Versus

Dy.General Manager,
State Bank of India,
Zonal Office, Hoshangabad Road,
Bhopal

...Management

AWARD

Passed on this 2nd day of May 2016

1. As per letter dated 21-7-06 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/235/2005-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Dy.General Manager, State Bank of India, Zonal Office, Hamidia Road, Bhopal in not issuing appointment letter and paying wages as per scale wage to Shri Santosh Kumar Sahu is justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/2 to 2/6. Case of workman is that he belongs to ST. he was engaged as messenger in Vindyanchal branch Bhopal during 14-5-91 to 20-6-91 in office of officers Union Hamidia during 21-6-91 to 31-7-92. He was sent for work. Secretary of Officers Union Mahesh directed him to work at Dhar branch on 31-7-92. He was working at Dhar branch from 1-8-92 to 13-4-94. He was paid wages in his name and sometimes in bogus names for 579 days. On 14-4-94, he was discontinued without notice, retrenchment compensation was not paid to him. Considering his working period, he was called for interview on 19-2-97. He appeared in the interview. That irregularities were committed. Shri Karkare head of Selection Committee was suspended on complaints. Workman filed Writ Petition No. 4811/2000 as per order dated 28-1-04, directions were given for giving appointment to the workman. Despite of the order passed by Hon'ble High Court, workman was not given appointment order. He was directed to work at Marwai branch from 8-3-04. Scale wages were not paid to him for working period 8-3-04 to 31-8-05. Workman had raised dispute before ALC bearing No. 7(39)04 during pendency of conciliation proceedings, his services were terminated without notice on 13-6-05 in violation of Section 33 of ID Act. He was not paid retrenchment compensation. On such workman further submits from 18-7-05 again he was engaged on work. He was paid Rs.1200 per month. He worked for 378 days till July 31st 2006. Workman prays that not issuing appointment letter, scale wages to him from 8-3-04 be declared illegal. Workman prays payment of scale wages with arrears with interest.

3. 2nd party filed Written Statement at Page 7/1 to 7/13 opposing claim of workman. Preliminary objection is raised that Shri Ram Nagwanshi is dismissed from service of the Bank is not competent to represent the workman. Ist party workman was engaged on daily wages. He was paid wages. Workman was free to come forward on next day. The disengagement of Ist party does not amount to retrenchment. It is covered under Section 2(oo)(bb) of ID Act. Workman was not given appointment letter. He was not selected following recruitment process. As per exigency, Ist party workman was engaged on daily wages for distribution of dak and receiving stationery etc. work. In 1991, workman worked for 30 days in Vindyanchal branch as coolie. In 1992, workman was engaged for 72 years at Dhar branch, in 1993, workman was engaged for 81 days at Dhar, during 1992 52 days in Dhar and in 199437 days in Dhar branch. Workman has not completed 240 days continuous service. Workman was engaged on basis of oral contract. He was not appointed as regular employee. Temporary employee were given opportunity for regular appointment as per settlement dated 17-11-87 and other bipartite agreements. Workman though called for interview, he remained absent therefore he was not considered for appointment as per the advertisement. Writ Petition No. 4811/2000 was filed by workman. As per order dated 8-3-04, Hon'ble High Court held that workman was not eligible for regular appointment. Whenever recruitment process is initiated in future, he may submit application alongwith relevant documents of working days. Workman was engaged for 1-2 hours. Workman is not entitled to scale wages. As no such appointment letter was given to workman, all adverse contentions of workman are denied reiterating that workman was not regular employee of the Bank. He was engaged on daily wages as coolie as per exigency of work. Workman was called for interview as per the settlement but it is denied that workman attended interview. Workman was not found eligible as he was absent for interview. The submissions w.r.t. order passed by Hon'ble High Court on 28-1-04 are reiterated. Workman was found not eligible for regular appointment. It is denied that workman as engaged and was paid Rs.1200 per month in 2005. As per 2nd party workman was engaged by canteen management. He was paid Rs.500 per month. Workman was fixed Rs.700 per month by the owner workman was looking after. It has no relevance to the dispute under reference.

4. Ist party workman submitted rejoinder at Page 10/1 to 10/3 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Dy.General Manager, State Bank of India, Zonal Office, Hamidia Road, Bhopal in not issuing appointment letter and paying wages as per scale wage to Shri Santosh Kumar Sahu is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. The term of reference pertains to not issuing appointment letter and not spaying wages as per pay scale to Santosh Kumar Sahu is referred. 2nd party has opposed claim of workman filing detailed reply.

7. Workman filed affidavit of his evidence covering his contentions w.r.t engagement from 24-5-90 to 20-6-91, 21-6-91 to 31-7-92, 11-8-92 to 13-4-93 at different places. Workman was called for interview on 19-2-97 and filing Writ Petition 4811/00. Order passed by Hon'ble High Court dated 28-1-04. In his cross-examination, workman says post of messenger was advertised. The advertisement did not disclose the vacant post. He was unable to tell date of advertisement and name of newspaper. He was called for interview on 19-2-97. The candidates having less number than him were absorbed. He was engaged on work and disengaged. During 1992 to 1994, he worked in Dhar branch. He was also working in the Bank during said period. The office bearer of Union told him to come for work at Dhar. Transfer order was not given to him. During 1992 to 1994, he worked in Head office. He was unable to tell the names by which he was paid wages. Exhibit W-1 was signed by him for work of coolie. Exhibit W-2 bears his signature regarding payment of auto charges. Workman has produced documents Exhibit W-3 to W-55 payment vouchers. Those payment vouchers are of the year 2004.

8. Management has filed affidavit of evidence of Shri Amal Kumar Majumdar supporting contentions of management in Written Statement. Management's witness in his cross examination says in 1991, he was not posted in Vidyanchal branch. From 1992 to 1994, he was not posted in Dhar branch. After order passed by Hon'ble High Court in 2004, workman was engaged at Marvadi branch. Management's witness denies that workman had filed proceeding before RLC for regularization. Before engaging workman, any procedure for selection was not followed. Permission of Controlling Officer was not obtained. Workman was not given appointment letter. His attendance register was not maintained. Workman was paid under voucher at prevailing rates of wages. Workman was doing cleaning sweeping work. Workman was paid rickshaw charges for work of distribution of dak. Management's witness admitted documents Exhibit W-3 to W-10, W-11 to W-55. He has no personal knowledge of the matter. As workman was not regular employee of the Bank, he was not paid scale wages.

9. At the time of argument, it was emphasized that workman was not given regular appointment as per order passed by High Court. Ist party workman has not explained under what rule, he is entitled for regular appointment. The order passed by Hon'ble High Court at Page 3/11 is that in future vacancies, workman was allowed to submit representation for weightage of past work done. No directions are given for appointment of the workman. Thus the claim of workman is not supported by any rule. For above reasons, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 जून, 2016

का.आ. 1294.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार परिचम मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 62/08) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.05.2016 को प्राप्त हुआ था।

[सं. एल-41012/10/2008-आईआर (बी-1)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 20th June, 2016

S.O. 1294.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/08) of the Central Government Industrial Tribunal-cum-Labour

Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Paschim Madhya Railway and their workmen, received by the Central Government on 25.05.2016.

[No. L-41012/10/2008-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR
NO. CGIT/LC/R/62/08**

Shri Mohanlal S/o Shri Manglia,
Village Khurd, PO Mohas,
Distt. Katni (MP)

... Workman

Versus

Divisional Railway Manager,
Paschimi Madhya Railway,
Jabalpur

...Management

AWARD

Passed on this 4th day of May 2016

1. As per letter dated 13-5-08 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-41012/10/2008-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of West Central Railway in terminating the services of Shri Mohanlal S/o Mangalia w.e.f. 19-8-84 and not regularizing his services when he has worked from 26-10-78 to 18-8-84 is legal and justified? To what relief he is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/2. Case of workman is that he was engaged on 26-10-78 under IOW Katni as casual labour. He worked till 18-8-84 for period of 6 years. He completed 240 days working and gained temporary status. Ist party workman further submits after he obtained temporary status his services should have been regularized. His medical examination was carried. He passed in B-1 category. Despite of passing medical examination in B-I category, instead of regularizing his services, workman was retrenched arbitrarily on 19-4-84. He was given assurance that he would be re-engage in next recruitment of casual employees of Railway. That in 2003, as per order of Railway Board, the scheme of recruitment of ex card holder casual employees was undertaken. 350 ex-casual labours have been selected and re-engaged. Workman was not given chance for screening. No intimation was given to him about recruitment. On such ground, workman prays for his re-engagement with consequential benefits.

3. 2nd party filed Written statement opposing the claim of workman. The contentions of 2nd party in Written Statement are the dispute is raised after long lapse of time. The record is preserved only for 5 years. The matter is time barred. As per 2nd party, workman worked as casual labour under IOW Katni. Both the places are isolated. There is no entry of initial appointment in the record. Workman has narrated wrong facts. The physical fitness certificate No. 155785 dated 16-12-83 does not bears signature of Medical Officer. In casual card produced by workman, last working is shown 18-8-84. The documents produced by workman are denied that notification dated 30-8-2000 was issued for updating names of casual/ supply live register to find/ verify how many eligible casual labours were brought in casual supply live register. After screening of live register by end of 2003 empanelled employees were posted. The case of workman could not be considered as he had not submitted application in time as per notification dated 30-8-2000. Workman himself pleaded that he seized to work in 1984. The dispute is raised in 2007 after gap of 23 years. The claim for regularization of workman is barred by time.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of West Central Railway in terminating the services of Shri Mohanlal S/o Mangalia w.e.f. 19-8-84 and not regularizing his services when he has worked from 26-10-78 to 18-8-84 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to legality of termination and denying regularization to the workman. Workman filed affidavit of his evidence supporting his contentions in statement of claim. However he failed to appear for his cross-examination. Management filed affidavit of evidence of witness Krishna Murari. Management's witness was not cross-examined by workman. His evidence remained unchallenged. As such workman has not properly participated in reference proceeding. He failed to appear for his cross-examination. Evidence of management's witness remained unchallenged. There is no evidence to support contentions of workman that he worked more than 240 days preceding 12 months of his termination. Workman is not entitled to protection of Section 25-F of ID Act. Workman has not adduced evidence to substantiate his claim for regularization as casual worker. Therefore I record my finding in Point No.1 in Affirmative.

6. Register regarding specimen thumb impression Register produced by 2nd party returned back after 30 days of publication of award.

7. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer